

BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN RE COMPLIANCE)	PDC CASE NO: #02-296
WITH RCW 42.17)	
)	REPORT OF INVESTIGATION
GARY PETERSEN)	
RICHARD BENJAMIN)	
H. M. FOOTE, JR.)	
MAGGIE STEENROD)	
JERRY GUITE)	
JOE COOMER)	
DON WASSON)	
HANK HOPKINS)	
WESCOT COMPANY)	
ENVIRONMENTAL MATERIALS)	
TRANSPORT, LLC)	
)	
Respondents.)	

I.

BACKGROUND

- 1.1 On April 1, 2002, Robert P. Awford filed a complaint with the Public Disclosure Commission, PDC Case No. 02-292, alleging that H. M. "Mike" Foote, Jr. and Wayne Bader violated RCW 42.17.510 and RCW 42.17.130 by using public facilities to reproduce a campaign flyer which was later distributed in the community without sponsor identification. Investigation of this complaint has been suspended until the Washington State Supreme Court decides the outcome of a separate case concerning RCW 42.17.130.
- 1.2 On April 15, 2002, the PDC received a formal complaint from David Kaplan alleging violations of RCW 42.17 by Gary Petersen, Richard Benjamin, H. M. "Mike" Foote, Jr., Maggie Steenrod, Jerry Guite and Joseph Coomer. Mr. Kaplan alleged the following:

- Advocacy calls were made on October 27, 29, 30 and 31, 2002 supporting Des Moines City Council candidates Richard Benjamin, Gary Petersen and Maggie Steenrod. The candidates did not report these calls as an expenditure or an in-kind contribution to the PDC, nor was an independent expenditure report submitted regarding the calls.
- Mike Foote and Maggie Steenrod received in-kind contributions from Des Moines City Councilmember Don Wasson and did not report those in-kind contributions.
- Mike Foote violated the mini-reporting limits by receiving in-kind contributions from Des Moines City Councilmember Don Wasson and monetary contributions from The Marina Tenants Association.
- Maggie Steenrod violated the mini-reporting limits by receiving in-kind contributions from Des Moines City Councilmember Don Wasson and monetary contributions from The Marina Tenants Association.
- Mike Foote used public facilities to write and copy an anonymous campaign flyer and did not report the independent expenditure and did not provide sponsor identification.
- Gary Petersen failed to report a \$1,000 contribution from the Des Moines Marina Tenant's Association.
- Gary Petersen failed to report an oral contract or "understanding" with the City of Des Moines Police Department on his August 27, 2001 F-1 Report.
- Gary Petersen failed to report the towing services he provides the City of Des Moines on his August 27, 2001 F-1 Report.
- Gary Petersen failed to provide a C-3 report for a \$500 contribution reported on his December 10, 2001 C-4 Report.
- Gary Petersen incorrectly reported on his C-3 report the date of a \$5,000 contribution his company made to his campaign in order to avoid the restriction on receiving over \$5,000 in contributions in the 21 days before a general election.

- Prior to the General Election, Jerry Guite produced a number of flyers in support of Richard Benjamin, Gary Petersen, Mike Foote and Maggie Steenrod and did not file an Independent Expenditure Form C-6.
- Prior to the General Election, Joe Coomer produced a number of flyers in support of Richard Benjamin, Gary Petersen, Mike Foote and Maggie Steenrod and did not file an Independent Expenditure Form C-6.

- 1.3 PDC staff determined that Don Wasson and Hank Hopkins of WESCOT Company and Environmental Materials Transport LLC engaged in activities that may have triggered reporting requirements under Chapter 42.17 of RCW and have been added as respondents in the complaint in PDC Case No. 02-296.
- 1.4 On April 30, 2002, Stanley M. Scarvie filed a complaint with the Public Disclosure Commission alleging that PDC laws were violated when an unidentified source funded a political sampling poll and advocacy calls benefiting Richard Benjamin, Gary Petersen and Maggie Steenrod in the November, 2001 Des Moines City Council election. As the issues in this complaint were addressed in David Kaplan's complaint, the two complaints were combined under PDC No. 02-296.

II.

SCOPE

- 2.1 Staff reviewed information relating to a complaint filed by David Kaplan on April 15, 2002. In addition, we also reviewed the following Public Disclosure Commission complaints that relate to the Des Moines City Council 2001 election:
- PDC Case No. 02-261, Respondents: Jerry and Patty Guite, Complaint filed by Ronald F. Clark, received by the PDC October 18, 2001. In addition, staff reviewed the Report of Investigation and the dismissal letter dated May 2, 2002, from Vicki Rippie, PDC Executive Director.
 - PDC Case No. 02-262. Respondent: Richard Benjamin. Complaint filed by Ronald F. Clark, received by the PDC October 22, 2001. In addition, staff reviewed the Brief Enforcement Hearing Memorandum and the Letter of Dismissal.

- PDC Case No. 02-292 Respondent: H.M. "Mike" Foote, Jr. Complaint was filed by Robert P. Awford, received by the PDC April 1, 2002. Investigation of this complaint has been suspended until a separate case concerning RCW 42.17.130 is heard by the Washington State Supreme Court.

2.2 Staff reviewed reports filed with the PDC relating to the 2001 Des Moines City Council election filed by candidates Richard Benjamin, Gary Petersen, H.M. "Mike" Foote, Jr., and Maggie Steenrod, and other reports filed by Joe Coomer and Jerry Guite.

2.3 Staff conducted the following interviews:

- H.M Foote, Jr. was interviewed under oath on June 26, 2002 and on July 9, 2002 via telephone.
- Gary Petersen was interviewed under oath on July 3, 2002 and on August 20, 2002 via telephone.
- Richard Benjamin was interviewed under oath on July 10, 2002 and December 5, 2002, via telephone.
- Donald Wasson was interviewed under oath on July 25, 2002 and November 12, 2002, at the office of the Attorney General at 1019 Pacific Ave., Tacoma, Washington. During the second interview, Mr. Wasson was represented by his attorney, Scott Missall. Mr. Wasson was interviewed a third time on January 2, 2003, via telephone. Mr. Missall also participated in the interview via conference call.
- Hank Hopkins was interviewed under oath on July 31, 2002 at the office of the Attorney General at 1019 Pacific Ave., Tacoma, Washington. He was represented by his attorney, Cyrus Vance.
- Cathy Naverud was interviewed under oath on August 21, 2002 via telephone.
- Tom Hujar was interviewed under oath at the Public Disclosure Commission offices on June 26, 2002. A subsequent interview under oath was conducted on August 28, 2002 at the office of the Attorney General at 1019 Pacific Ave., Tacoma, Washington.

- Joseph Coomer was interviewed under oath on August 20, 2002 via telephone.
- Jerry Guite was interviewed under oath on August 15, 2002 via telephone.
- Maggie Steenrod was interviewed under oath on December 6, 2002 via telephone.
- Sgt. Collins and Detective Thomas of the Des Moines Police Department via telephone.
- Thomas Sitterley was interviewed on July 30, 2002 via telephone.
- Mike McGuire of McGuire Research Services was interviewed on June 5, 2002 via telephone.
- Linda Marousek, City of Des Moines City Attorney on December 6, 2002 via telephone
- Mike Snyder, political consultant, on August 20, 2002 and September 11, 2002.

2.4 Staff reviewed written responses to PDC Case No. 02-296 from:

- On April 24, 2002, and May 7, 2002, H.M. "Mike" Foote, Jr. submitted written responses to the PDC.
- On May 1, 2002, Wayne Bader responded in writing to a request from the PDC for any information regarding Robert Awford's complaint.
- On May 6, 2002, Gary Petersen responded in writing in response to Mr. Kaplan's complaint and on May 23, 2002, to Mr. Scarvie's complaint.
- On July 9, 2002, Richard Benjamin responded in writing in response to the Kaplan complaint and on May 21, 2002, he faxed a letter in response to the Scarvie complaint.
- Maggie Steenrod provided a written response to Mr. Kaplan's complaint on May 6, 2002 and on June 3, 2002 to Mr. Scarvie's complaint.

- On August 13, 2002, Donald Wasson provided a written response to PDC staff questions relating to the complaint filed by David Kaplan.
- On May 1, 2002, Jerry Guite provided a written response to the complaint filed by David Kaplan.

2.5 Staff also reviewed the following:

- Emails, bank statements and other documents provided by Tom Hujar.
- Subpoenaed bank statements concerning Tom Hujar from
 1. American Marine Bank
 2. Bank of America
- Bank records and correspondence concerning Tom Hujar provided by Hank Hopkins, Environmental Materials Transport, LLC.
- Bank statements and check copies provided by Don Wasson from:
 1. Washington Mutual Bank
 2. Pacific Northwest Bank
 3. Bank of America
 4. Key Bank
 5. National Bank of Tukwila
- Bank records provided by Thomas Sitterley, President Des Moines Marina Association.
- Pete's Towing invoicing of City of Des Moines for services provided by Gary Petersen, Pete's Towing Service.
- Payment records from City of Des Moines to Pete's Towing Service provided by Linda A. Marousek, City Attorney for the City of Des Moines.
- Invoices, payment records and draft survey provided by McGuire Research Services, LLC.

- Emails dated September 16 and 17, 2002 from Mike Snyder, political consultant.

2.6 Staff reviewed election results from King County Records and Elections.

III.

LAW & ADMINISTRATIVE RULES

3.1 **RCW 42.17.020** states in part:

(14)(a) "Contribution" includes:

(ii) An expenditure made by a person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate, a political committee, or their agents;

(24) "Independent expenditure" means an expenditure that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for office by a person who is not (i) a candidate for that office, (ii) an authorized committee of that candidate for that office, (iii) a person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office, or (iv) a person with whom the candidate has collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(b) The expenditure pays in whole or in part for political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name; and

(c) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value of *five hundred dollars or more. A series of expenditures, each of which is under five hundred dollars, constitutes one

independent expenditure if their cumulative value is five hundred dollars or more.

(25)(a) "Intermediary" means an individual who transmits a contribution to a candidate or committee from another person unless the contribution is from the individual's employer, immediate family as defined for purposes of RCW 42.17.640 through 42.17.790, or an association to which the individual belongs.

3.2 **WAC 390-05-190** Agent -- Definition. "Agent," as that term is used in chapter 42.17 RCW and Title 390 WAC, means a person, whether the authority or consent is direct or indirect, express or implied, oral or written, who:

- (1) Is authorized by another to act on his or her behalf; or
- (2) Represents and acts for another with the authority or consent of the person represented; or
- (3) Acts for or in place of another by authority from him or her.

3.3 **WAC 390-05-210** Definition -- Contribution.

(3) Consulting with a state, local or judicial candidate. An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent is a contribution to such candidate. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, the candidate's authorized committee or agent when:...

(b) An expenditure is made based on information about the candidate's plans, projects or needs provided to the expending person by the candidate, the candidate's authorized committee or agent with a view toward having an expenditure made;

3.4 **RCW 42.17.040** states in part:

(1) Every political committee, within two weeks after its organization or, within two weeks after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier, shall file a statement of organization with the commission and with the county auditor or elections officer of the county in which the candidate resides.

(2) The statement of organization shall include but not be limited to:(i) The street address of the place and the hours during which the committee

will make available for public inspection its books of account and all reports filed in accordance with RCW 42.17.080;

3.5 RCW 42.17.080 states in part:

(2) At the following intervals each treasurer shall file with the commission and the county auditor or elections officer of the county in which the candidate resides... a report containing the information required by RCW 42.17.090:

- (a) On the twenty-first day and the seventh day immediately preceding the date on which the election is held; and
- (b) On the tenth day of the first month after the election...
- (c) On the tenth day of each month in which no other reports are required to be filed under this section...unless there is less than \$200 in contributions received

3.6 RCW 42.17.090 states in part:

(2) Each report required under RCW 42.17.080 (1) and (2) shall disclose the following:

- (b) The name and address of each person who has made one or more contributions during the period, together with the money value and date of such contributions and the aggregate value of all contributions received from each such person during the campaign...

3.7 RCW 42.17.100 states in part:

(1) For the purposes of this section and RCW 42.17.550 the term "independent expenditure" means any expenditure that is made in support of or in opposition to any candidate or ballot proposition and is not otherwise required to be reported pursuant to RCW 42.17.060, 42.17.080, or 42.17.090.

3.8 RCW 42.17.105 states in part:

"(1) Campaign treasurers shall prepare and deliver to the commission a special report regarding any contribution or aggregate of contributions which: Is one thousand dollars or more; is from a single person or entity; and is received during a special reporting period."

3.9 RCW 42.17.120 states in part:

“No contribution shall be made and no expenditure shall be incurred, directly or indirectly, in a fictitious name, anonymously, or by one person through an agent, relative, or other person in such a manner as to conceal the identity of the source of the contribution or in any other manner so as to effect concealment.”

3.10 RCW 42.17.130 states in part:

“No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: . . . PROVIDED, That the foregoing provisions of this section shall not apply to the following activities: . . .

3.11 RCW 42.17.240 states in part:

Elected and appointed officials, candidates, and appointees -- Reports of financial affairs and gifts.

(1) Every elected official and every executive state officer shall after January 1st and before April 15th of each year file with the commission a statement of financial affairs for the preceding calendar year. However, any local elected official whose term of office expires immediately after December 31st shall file the statement required to be filed by this section for the year that ended on that December 31st.

(2) Every candidate shall within two weeks of becoming a candidate file with the commission a statement of financial affairs for the preceding twelve months.

3.12 RCW 42.17.510 states in part:

All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsors name and address.

- 3.13 **WAC 390-05-190 Agent -- Definition.** "Agent," as that term is used in chapter 42.17 RCW and Title 390 WAC, means a person, whether the authority or consent is direct or indirect, express or implied, oral or written, who:
- (1) Is authorized by another to act on his or her behalf; or
 - (2) Represents and acts for another with the authority or consent of the person represented; or
 - (3) Acts for or in place of another by authority from him or her.

- 3.14 **WAC 390-05-210 Definition -- Contribution.** (1) The term "contribution" as defined in RCW 42.17.020 shall be deemed to include, among other things, furnishing services or property or rights on a discriminatory basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution of goods or services is provided, it shall be reported at its fair market value, per WAC 390-05-235 and, pursuant to RCW 42.17.640, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.

- 3.15 **WAC 390-16-105 states in part:**

- (1) A candidate or candidate's authorized committee, as those terms are defined in RCW 42.17.020, shall not be required to comply with the provisions of RCW 42.17.060 through 42.17.090 except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 when neither aggregate contributions nor aggregate expenditure[s] exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed three thousand five hundred dollars and no contribution or contributions from any [person] other than the candidate within such aggregate exceed three hundred dollars. However, a bona fide political party may pay the candidate's filing fee provided by law without that payment disqualifying that candidate from eligibility under this section.

- 3.16 **WAC 390-16-125 states in part:**

Whenever there is reason to believe that any of the aggregate limitations specified in WAC 390-16-105 or 390-16-111 will or may be exceeded, the candidate or committee may apply to the commission for authorization to change reporting options.

- (2) If the application is made more than thirty days prior to the date of the election, the application will be considered approved without

further action by the commission if the person making application submits an amended C-1, C-3 and C-4 reports and a statement affirming that all known candidates for the office being sought have been notified personally of the application stating the manner and date of such notification.

(2) If the application is made within thirty days of the date of the election, the application shall be approved only by authorization of the commission executive director.

Any person who knowingly or negligently causes or permits the limitations specified in these regulations to be exceeded shall be deemed to have violated the applicable provisions of RCW 42.17.040 - 42.17.090.

3.17 WAC 390-16-207 states in part:

In-kind contributions.

(3) An in-kind contribution occurs when a person provides goods, services or anything of value, other than money or its equivalent, to a candidate or political committee free-of-charge or for less than fair market value, unless the item or service given is not a contribution according to RCW 42.17.020 (14)(b) or WAC 390-17-405.

(4) In-kind contributions to recipients who have limits.

IV.

FINDINGS

- 4.1 On April 15, 2002, a formal complaint was filed with the Public Disclosure Commission by David Kaplan alleging violations of RCW 42.17 by Gary Petersen, Richard Benjamin, H. M. "Mike" Foote, Jr., Maggie Steenrod, Jerry Guite and Joseph Coomer. Specifically, Mr. Kaplan alleged that Gary Peterson failed to disclose information on his Personal Financial Affairs Statement (PDC Form F-1); that unreported consulting services were provided by Don Wasson to two Des Moines City Council candidates who exceeded the mini reporting limits; that the Des Moines Marina Association made contributions to three candidates for Des Moines City Council that were not disclosed; that a political advertisement was produced and distributed in the City of Des Moines without sponsor identification; that additional political advertisements supporting or opposing candidates for Des Moines City Council failed to contain proper

sponsor identification and were not timely reported; that a survey and advocacy phone calls were made supporting candidates for Des Moines City Council that were not reported, and that public facilities of King County Water District #54 were used to produce and distribute a flyer that supported or opposed candidates for Des Moines City Council in the 2001 City Council elections.

- 4.2 During the course of the investigation, it was determined that Don Wasson and Hank Hopkins, president of WESCOT Company and Environmental Materials Transport, LLC engaged in activities that may have triggered reporting requirements under Chapter 42.17 RCW, and were added as respondents.
- 4.3 On May 1, 2002, a complaint addressing several of the same issues in the Kaplan complaint was received from Stanley M. Scarvie on behalf of Citizens for Des Moines. Mr. Scarvie's complaint has been made a part of Case #02-296.
- 4.4 The investigative portion of the complaint regarding H.M. Foote Jr.'s alleged use of the public facilities of King County Water District #54 to produce and distribute a flyer that supported or opposed candidates has been suspended pending the outcome of pending litigation involving RCW 42.17.130.

General Background:

- 4.5 Donald Wasson was first elected to Des Moines City Council in 1990 and served through 1993. He ran and lost in the next election, but was re-elected to the Des Moines City Council in 1996 and 2000. His current term of office expires December 31, 2003. In March 2002, Mr. Wasson was appointed Mayor by the Des Moines City Council.
- 4.6 Richard Benjamin filed a Candidate Registration Statement (PDC Form C-1) on August 7, 2001 declaring his candidacy for Des Moines City Council. He filed a Financial Affairs Statement (PDC Form F-1) on August 7, 2001. Mr. Benjamin chose the full reporting option for his campaign and reported raising \$4,120 and spending \$6,062.23 on his campaign.
- 4.7 Gary Petersen filed a Candidate Registration Statement (PDC Form C-1) on August 27, 2001 declaring his candidacy for Des Moines City Council. He filed a Financial Affairs Statement (PDC Form F-1) on August 27, 2001. Mr. Peterson chose the full reporting option for his campaign and reported raising \$10,550 and spending \$10,458.68 on his campaign.

- 4.8 On August 10, 2001, Maggie Steenrod filed a Candidate Registration Statement (PDC Form C-1) with the PDC on November 6, 2001 declaring her candidacy for Des Moines City Council. She filed a Financial Affairs Statement (PDC Form F-1) on August 10, 2001. Ms. Steenrod's C-1 Form indicated she chose the mini-reporting option.
- 4.9 H. M. "Mike" Foote, Jr. filed a Candidate Registration Statement (PDC Form C-1) the PDC on August 7, 2001 declaring his candidacy for Des Moines City Council. He filed a Financial Affairs Statement (PDC Form F-1) on June 28, 2001. Mr. Foote chose the mini-reporting option.
- 4.10 Officials at the Port of Seattle have proposed constructing a third runway to reduce flight delays during bad weather. The site of the proposed runway will require more than 17 million cubic yards of fill to be brought to it. In 1993, the city of Des Moines, along with three other cities and the Highline School District formed the Airport Communities Coalition (ACC) to oppose any further expansion of the airport into their neighborhoods. A fifth city joined the coalition in 1996. In 1997, WESCOT Company first proposed building a conveyor system that would link a new dock in Des Moines to an unloading area at the south end of the existing Sea-Tac runways. If approved, the conveyor system will be used instead of trucks to transport the fill to the site of the proposed new runway. The City Council has continued to oppose WESCOT Company's plan. WESTCOT Company currently has two lawsuits pending against the City of Des Moines. Hank Hopkins is the president of WESCOT Company and Environmental Materials Transport, LLC.

Don Wasson-Recruiting Candidates for Des Moines City Council:

- 4.11 Don Wasson stated that for the years that he served on the City Council, he found himself philosophically at odds with the rest of the council:
- “...we had a council who, whose, I guess I could describe it as the majority of the council's philosophy differed from mine...They were, well, they were characterized as tax and spend, basically conservative. And so I was probably the most ineffective council member during that time because my views were ignored...When I met the new council members, why they, or the candidates, they, there were three of them who were business people and we shared similar philosophies of how government should be run...That the previous council, the majority of the previous council was, in my view, a tax and spend council. My, my views are more conservative.” **(Exhibit # 1, page 1, 2/ Wasson 8/28/02 interview)**

- 4.12 Mr. Wasson testified that he spoke with Gary Petersen about running for City Council and stated:

“And I had, for several months I had talked to him about filing for office and finally he decided to run on my urging. And his reluctance all along was that he didn’t know whether he had time to be involved in the campaign so that was, he didn’t really need my help but...I talked him into it, let’s put it that way. And he didn’t have the time to devote to it as much as he would like to so that was my motivation in helping him. **(Exhibit # 2, page 4/ Wasson 7/25/02 interview)**

- 4.13 Mr. Wasson described his role in Richard Benjamin’s campaign. He stated that he met with Mr. Benjamin dozens of times throughout the campaign. He stated:

“I didn’t know Richard Benjamin prior to the campaign but I decided that I would like to support him so I offered my help. I didn’t offer him any cash support but I offered to supply some materials and some campaign advice, I guess, on how to, what I thought would be an effective campaign.” **(Exhibit # 2, page 1/ Wasson 7/25/02 interview)**

- 4.14 Maggie Steenrod was encouraged to run for City Council by Mr. Wasson. Mr. Wasson stated:

“I met her when she was a member of the Chamber of Commerce and her function in the Chamber of Commerce was the liaison to the city council and so she attended prior, the year prior to the election she attended most all of the city council meetings and reported the content of those meetings to the chamber at their meetings which I attended because I was the city council liaison to the chamber. So that’s where I met her. And it was clear that she was somewhat perturbed by what she saw happening at the council meetings. That was one of the precipitating factors that caused her to file for office. I also encouraged her.” **(Exhibit # 1, page 6/ Wasson 11/12/02 interview)**

Don Wasson-Hiring a Political Consultant for Des Moines City Council Candidates:

- 4.15 After discussions with candidates for Des Moines City Council, Mr. Wasson decided to research hiring a campaign consultant to assist the campaigns. Mr. Wasson stated the following:

“...I’m not sure exactly where I got the name but a company called F.D.R. and a consultant by the name of Tom Hujar, and I contacted him and asked for his help. He said he wasn’t too interested but he would take a look and he became more interested and I said, ‘How about if I hire you to give me advice on how to do this and I will help the other candidates that I’m supporting?’” **(Exhibit # 2, page 2/ Wasson 7/25/02 interview)**

- 4.16 Hank Hopkins, President of WESCOT Company/Environmental Materials Transport, LLC stated that he first met Tom Hujar on a project the previous year. He went on to state that he referred Mr. Hujar to Don Wasson:

“Well, Don Wasson asked me if I knew of anybody that could help him in his efforts at a later date...He didn’t describe it that much to me...He just said he was hoping to help new people running for council.” **(Exhibit # 3, pages 5, 6/ Hopkins 7/31/02 interview)**

- 4.17 Tom Hujar, a political consultant, stated that Don Wasson had contacted him prior to the Des Moines City Council general election. Mr. Hujar stated:

“In September of last year I was called by a gentleman named of Don Wasson who had told me that he was searching for a political consultant to help him in his campaign. And he had told me that he actually wanted to hire somebody from the Madison Group but that in fact they either turned him down or they weren’t interested in the race. I talked to him on the phone about the race and he told me he had very limited money that he could put into the race and I told him that I would be happy to give him verbal advice and I would provide strategy for him, but for \$2,000 I think it was \$2,000, there was very little work that I could possibly do for him.” **(Exhibit # 4, page 1/ Hujar 6/26/02 interview)**

- 4.18 Mr. Hujar stated the following regarding Don Wasson seeking to hire a political consultant:

“...Don had explained to me that he had been a city council member for a number of years and he was tired of always being on the losing end of a 6 to 1 vote and he wanted to earnestly work for candidates who would support him in trying to change the policies of Des Moines. He wanted me to provide strategic advice to candidates that would support him and his policies. So I would talk

to them, I would go back to Don and I would give him strategic advice. I would give him copies of brochures from other campaigns that I had used to give to these candidates. I would give him an assessment of what I thought each candidate needed to do in order to win and where his resources should go.” **(Exhibit # 4, page 2/ Hujar 6/26/02 interview)**

- 4.19 In a later interview, Mr. Hujar explained his understanding of the reason Don Wasson was seeking to hire him:

“...he wanted to be Mayor. And that he had recruited these four candidates, at least three of the, he had recruited three of the candidates and that if they won the campaign he was going to become Mayor of Des Moines and that was his lifelong dream.” **(Exhibit # 5, page 19/ Hujar 8/28/02 interview)**

- 4.20 PDC Staff interviewed Don Wasson under oath on July 25, 2002. He stated Gary Petersen suggested hiring a campaign consultant. Mr. Wasson testified,

“I was supporting another candidate as well as Richard Benjamin, a Mr. Petersen, well I’m sure you’ll get to him later. But I had encouraged Mr. Petersen to file for office as well and Mr. Petersen called me and told me that somebody else had come to him and suggested that he enlist the aid of a campaign consultant. He asked me what I thought about it and I said let me check into it.” **(Exhibit # 2, page 2/ Wasson 7/25/02 interview)**

- 4.21 Mr. Wasson stated that he wanted to encourage City Council candidates Richard Benjamin and Gary Petersen,

“...because of a similar philosophy about government. Both of them are in business and my view of what had gone on for all of the time that I had been on the city council was that I was the only businessman on the council. I was the only one who knew what it meant to handle money effectively...” **(Exhibit # 2, page 4/ Wasson 7/25/02 interview)**

- 4.22 Mr. Wasson stated the following regarding payments made to Tom Hujar using his personal funds:

“And so I paid him \$1,000 for his consulting services. And I then split that \$1,000 between Mr. Peterson and Mr. Benjamin. So that was \$500 of the in-kind services that I provided to each of them...”

And then I got some paper for flyers and I got it for free. So it was very expensive paper but it was a gift to me so I just arbitrarily allocated \$250 for the value of the paper and I provided it to both Richard Benjamin and Gary Peterson.” **(Exhibit # 2, pages 2, 3/ Wasson 7/25/02 interview)**

- 4.23 Mr. Wasson testified that he paid Mr. Hujar \$1,000 for his consulting services. Mr. Wasson provided a copy of a carbon record of check number 300, dated October 25, 2001 payable to F.D.R. in the amount of \$1,000. The name of the bank is not indicated on the carbon. **(Exhibit # 6)** Copies of the original check were not obtained from Mr. Wasson.

Mr. Wasson stated that the \$1,000 payment to Tom Hujar came from personal funds in his checking account. He was asked if anyone reimbursed him for the payment and he stated, “No.” **(Exhibit # 1, page 7/ Wasson 11/12/02 interview)**

- 4.24 Mr. Hujar stated in a September 26, 2002 email to staff:

“I am absolutely positive that Mr. Wasson gave me two \$1,000 checks. One was for the initial retainer, the second was in November.” **(Exhibit # 7)**

- 4.25 On November 27, 2002, Mr. Hujar submitted clarification of his recollection of payment from Mr. Wasson. His written statement reported:

“I received two checks from Don Wasson. One check was received in October that I deposited with other checks. I believe that this check was a personal check from Mr. Wasson. The second check was given to me in November and it may have been from Mr. Wasson’s business checking account.” **(Exhibit # 8)**

“I did receive a \$1,000 check from Don Wasson I believe either in late September or early October. And I believe that I had received a subsequent check from Don Wasson of \$1,000 in either November or December. **(Exhibit # 5, page 4/ Hujar 8/28/02 interview)**

- 4.26 Mr. Hujar provided copies of his September, 2001 F.D.R. Services bank statements from Bank of America. His October, November and December 2001 statements were subpoenaed from Bank of America.

- Mr. Hujar’s November, 2001 bank statement shows that check number 300 from Donald Wasson, dated October 25, 2001, in the amount of

\$1,000 was deposited in F.D.R. Services Bank of America account on November 6, 2001. **(Exhibit # 9)**

- Mr. Wasson provided a copy of number 4895, in the amount of \$1,000 written from the Tech-Marine Enterprises Inc. (of which Mr. Wasson is President) account at National Bank of Tukwila, payable to Don Wasson and signed by Don Wasson **(Exhibit # 14)** and deposited into Mr. Wasson's personal account at Pacific Northwest Bank on October 26, 2001. **(Exhibit # 10)**
- Mr. Wasson's October 10-November 9, 2002 Pacific Northwest Bank statement shows a deposit of \$1,000 into his personal account on October 26, 2001. That same account also shows check number 300, in the amount of \$1,000 clearing the account on November 7, 2001. The check, dated October 25, 2001, matches the check deposited into Mr. Hujar's F.D.R. Services bank account on November 6, 2001.

4.27 Evidence of a second check from Don Wasson was not found in the bank records of Tom Hujar that were available to PDC staff.

Don Wasson-In kind Contributions to Candidates:

4.28 In Mr. Wasson's first interview, he stated that he paid consultant Tom Hujar \$1,000 and allocated \$500 of that fee to Gary Petersen and \$500 to Richard Benjamin and advised them to each report it as an in kind contributions from Mr. Wasson for consulting. In addition, Mr. Wasson stated he asked Jerry Guite for paper for the candidates. He stated:

"And then I got some paper for flyers and I got it for free. So it was very expensive paper but it was a gift to me so I just arbitrarily allocated \$250 for the value of the paper and I provided it to both Richard Benjamin and Gary Petersen...It was a gift to me from a Jerry Guite who is a close friend and is in the liquidating business...I asked him for the paper...And the reason I asked him for it was I wanted it for the candidates." **(Exhibit # 2, page 3/ Wasson 7/25/02 interview)**

4.29 Two candidates reported in-kind contributions received from Don Wasson. **(Exhibits # 11 and 12)**

<u>Candidate</u>	<u>Date reported</u>	<u>Comments</u>	<u>Amount</u>
Richard Benjamin	10/30/01	Consulting	\$750
Gary Petersen	11/1/01	Printing	\$300
Gary Petersen	11/1/01	Campaign Consulting	\$750

- 4.30 In Mr. Wasson's second interview he described the details of the two candidate's reported in kind contributions. In regards to Mr. Benjamin:

"I contributed a \$750, I identified it as a \$750 contribution for in kind campaign consulting. Which I didn't break down, I actually gave him what I considered to be \$500 worth of campaign consulting or campaign advice and some paper for printing purposes, which I arbitrarily set at \$250." **(Exhibit # 1, page 3/ Wasson 11/12/02 interview)**

- 4.31 Mr. Wasson described his in kind contribution to Mr. Petersen:

"I had indicated to him or to his daughter that the \$750 in kind contribution, I didn't when I, when it come time to make the reports I gave both of them an in kind contribution of \$750 and I didn't detail it as to what it was. I later told them that after, I guess after the campaign I told them that that consisted of \$500 for campaign consulting and \$250 for paper. And I did not detail that prior to that time." **(Exhibit # 1, page 5/ Wasson 11/12/02 interview)**

- 4.32 Don Wasson stated in his first interview that he did not provide any printing for Gary Petersen's campaign, and might have delivered some campaign material to a printer for him as a favor. Mr. Petersen's bookkeeper, Cathy Naverud told staff Mr. Petersen never received any paper from Mr. Wasson, but that Mr. Wasson paid for printing of Mr. Petersen's campaign material at Costco. She stated Mr. Wasson told her the value of the printing was \$300 and that was what she should report. She stated she did not receive an invoice from Mr. Wasson.

- 4.33 In Mr. Wasson's second interview he stated that he did, in fact, pay for Mr. Petersen's campaign printing. He stated:

"So I had some printing done for him...It was a flyer, I think it was the second flyer that he had and I had it, I took a copy to Costco and had them print it and I paid for that myself and gave him a copy of the invoice as an in kind contribution." **(Exhibit # 1, page 4/ Wasson 11/12/02 interview)**

- 4.34 On August 13, 2002, Mr. Wasson provided a copy of a check carbon made out to Costco dated October 28, 2001 in the amount of \$418.88. **(Exhibit # 13)** On December 20, 2002, Mr. Wasson also provided a copy of the October 10-November 9, 2001 Pacific Northwest Bank statement

showing check number 301 in the amount of \$418.88 clearing his account on October 30, 2001. **(Exhibit # 10)**

- 4.35 Mr. Hujar stated that the \$750 in kind contribution from Don Wasson reported by Richard Benjamin and Gary Petersen occurred prior to his meeting with the candidates. "And you know, the \$750 PDC contribution that they put was before I met with them and before I knew that there was going to be more money that was going to be put into it." **(Exhibit # 5, page 23/ Hujar 8/28/02 interview)**

Hank Hopkins, WESCOT Company and Environmental Materials Transport, LLC:

- 4.36 Hank Hopkins, President of WESCOT Company and Environmental Materials Transport, LLC, was interviewed under oath on July 31, 2002. He stated that he met with Don Wasson near the end of September because he was curious to know what was going on in general with the city's position regarding the third runway. He explained that WESCOT Company was proposing to the City of Des Moines a conveyor system to be used to construct the proposed third runway. He stated:

"My company was interested in offering to the port as a bidder, the possibility of building the runway from material that would be moved by conveyor... Well, WESCOT Company had to submit to the city a proposal for using the park plans and the property of the city. And we were also going to submit permit, applications for permits." **(Exhibit # 3, page 1/ Hopkins 7/31/02 interview)**

- 4.37 Don Wasson testified that he was familiar with Hank Hopkins and the WESCOT Company from prior business contacts:

"I had met him probably 20 years ago through one of the, one of my customers who was building some machinery for him and it was just a brief encounter, I think I met him one afternoon and that was it. And then when he, a more recent meeting with him, I was on the city council and he was lobbying the city council members to allow his company to build a conveyor belt to convey construction materials for the third runway through Des Moines...He had, I think he had applied for a permit from the City of Des Moines for the conveyor belt and it was denied and he was very concerned that he would be able to build the conveyor sometime in the future and he thought maybe he could change the minds of the council members and he contacted, I believe he contacted all of the council members

over a several year period.” **(Exhibit # 1, page 7/ Wasson 11/12/02 interview)**

4.38 Mr. Wasson stated the following with regards to Hank Hopkins:

“He had been lobbying me to try and get permission for the conveyor belt. And when it came election time he inquired of who was running and what I thought the prospects were. I think that’s probably about the extent of it. .” **(Exhibit # 2, pages 7, 8/ Wasson 7/25/02 interview)**

4.39 Mr. Hopkins stated that Don Wasson:

“...mentioned to me that he felt the upcoming election, it would have some new candidates running...I thought that from his discussion that he was indicating that maybe there would be a new philosophy put forth by the new candidates that were running.” **(Exhibit # 3, page 2/ Hopkins 7/31/02 interview)**

4.40 Staff asked Mr. Hopkins if Don Wasson discussed with him the possibility of WESCOT Company contributing to any of the candidates for the city council race. Mr. Hopkins stated:

“He just mentioned that if the people running for the council had some help perhaps that group might have a chance to be elected...I did not agree to give support to the candidates. I did respond to his request or his suggestion that support to him might be given to him to help him and his cause and the general cause...I gave him a check for \$1,000...Just in general, I assume to assist his efforts to help out this new group of people..” **(Exhibit # 3, pages 2, 3/ Hopkins 7/31/02 interview)**

4.41 Mr. Hopkins was asked why he was supporting this “general cause.” He testified that,

“Because we, over many years before that, to us many years had been trying to get our project acknowledged and approved by the city and the council before that, historically, wouldn’t even talk to us about some things. I mean they wouldn’t even, they denied us so we were naturally interested in seeing if there was some new blood if you will, new faces with open mindedness that might come in handy.” **(Exhibit # 3, page 6/ Hopkins 7/31/02 interview)**

Wasson/Hopkins concealment:

- 4.42 Hank Hopkins provided a copy of check #5196 dated September 17, 2001, from Environmental Materials Transport, LLC, made out to Don Wasson in the amount of \$1,000. **(Exhibit # 15)**
- 4.43 On November 12, 2002, Don Wasson denied under oath receiving a check from Hank Hopkins. He stated:
- “I never received a check from Hank Hopkins. If I had, I wouldn’t be dumb enough to accept it or endorse it. I, well at least I think I’m that smart. I mean, it was obvious what Hank Hopkins wanted and I would never accept it...I can’t believe that I ever received that check. And I don’t believe I did. **(Exhibit # 1, page 10/ Wasson 11/12/02 interview)**
- 4.44 Mr. Wasson was provided with a copy of the front and back of the \$1,000 check made out to him from Environmental Materials Transport, LLC (Exhibit # 15). On December 24, 2002, after viewing the check copy, Mr. Wasson told staff that he did, in fact, receive the check from Mr. Hopkins. Mr. Wasson stated that the check was deposited in his bank account at Washington Mutual Bank, but that he had no explanation of what the money was for. He stated he has requested a copy of the deposit receipt from his bank and will forward it to the PDC when he receives it.
- 4.45 Check Number 5196, dated September 17, 2001 from Environmental Materials Transport, LLC, to Don Wasson shows a deposit date into Washington Mutual Bank on September 27, 2001. Mr. Wasson’s September 27-October 24, 2001, Washington Mutual bank statement reports a deposit on September 27, 2001 in the amount of \$3,055.24. **(Exhibit # 16)** Mr. Wasson was asked by staff if the check from EMT, LLC, could have been included in that deposit into his account. He stated, “I’m sure it would have had to have been.” **(Exhibit # 17, Page 2/ Wasson 1/2/03 interview)**
- 4.46 Mr. Wasson was interviewed under oath on January 2, 2003. At that time he stated that he did receive \$1,000 from Hank Hopkins that may have been a contribution to the Des Moines City Council election. He stated:
- “I had no recollection of receiving the check and that’s why in our previous meeting I was so adamant about the fact that I had never received it. I didn’t remember it and I didn’t believe that it had happened and I made some strong arguments that it never happened but back then but I now have to acknowledge that it did

happen and that the signature on the check looks like my signature. And I checked with the bank that I deal with and it was deposited in the same account that they make, that the branch I deal with has their deposits recorded in.” **(Exhibit # 17, Page 1/ Wasson 1/2/03 interview)**

- 4.47 Approximately one month after receiving \$1,000 from EMT, LLC, Mr. Wasson wrote a \$1,000 check to Tom Hujar for consulting services. Mr. Wasson was asked if it would be accurate to say that the \$1,000 from Tom Hujar actually came from Hank Hopkins and just passed through Mr. Wasson’s account. Mr. Wasson stated,

“I, the only way that I could answer that question is to say I could not deny it because I don’t have a clear recollection of the event but my check to, the account that I deposited the check into is a money market account that I have my social security and city pay direct deposited in. And from time to time I withdrawn money from that account and place it into my checking account at Pacific Northwest bank and that’s where I, that’s the account that I wrote the check to Mr. Hujar.” **(Exhibit # 17, Page 3/ Wasson 1/2/03 interview)**

- 4.48 Staff asked Mr. Wasson who he thinks should have been responsible for reporting the \$1,000 contribution from Hank Hopkins. He stated, “I believe I would be responsible for it.” **(Exhibit # 17, Page 3/ Wasson 1/2/03 interview)**

- 4.49 Mr. Wasson stated he didn’t report the \$1,000 contribution because it didn’t occur to him. He stated that he probably thought about how a contribution from WESCOT Company to the campaign might appear to the public. He stated,

“Well Hank Hopkins had been lobbying the city council for several years about his project and that could conceivably have an adverse impact on the results of the campaign.” **(Exhibit # 17, Page 4/ Wasson 1/2/03 interview)**

- 4.50 The initial discussions between Tom Hujar and Don Wasson were limited to consulting available for \$2,000. Mr. Hujar stated he told Mr. Wasson,

“At that time I had told him that for \$2,000 the only amount of services that I could provide was telephone consultation and maybe meeting with the candidates. But that for, that was as far as it went for \$2,000. It was only after I met, that he set up this meeting with

Hank Hopkins, that my role expanded.” **(Exhibit # 5, page 16/ Hujar 8/28/02 interview)**

“Don told me that he did not have the money, nor did these candidates have the money to do these races. And I talked with him about people who could contribute to these races. Don told me that the one person, the one company that would be most interested in this project was the WESCOT Company.” **(Exhibit # 4, page 5/ Hujar 6/26/02 interview)**

“Well he told me the WESCOT Company. He didn’t tell me, I don’t think he told me Hank Hopkins. He said the WESCOT, there was the one company and he had told me at the time he said, I asked him how he felt about the beltline project and he said you know I have always supported the beltline project, I don’t want the third runway to be built but if it is going to be built, I want the City of Des Moines to have some type of compensation and I am completely in support of this project and I think Hank will help will help me out. Well I think that the WESCOT Company will help us out.” **(Exhibit # 5, page 16/ Hujar 8/28/02 interview)**

- 4.51 Mr. Hujar stated that he suggested that Don Wasson contact WESCOT Company in order to obtain additional campaign funding. He stated:

“No, I mean I didn’t even know, I wouldn’t even know how to get a hold of Hank Hopkins. Don told me when I first, when we first had this conversation he said well there is this one company, the Westcot Company, that I think would contribute. And I’ll call them up and I’ll see. And he called them up. I may have done the second call to go meet with them. I don’t know who set up the meeting but Don was one who clearly made the first call. I wouldn’t have called them.” **(Exhibit # 5, page 17/ Hujar 8/28/02 interview)**

“I know that, I believe that the first phone call for money was clearly with Don Wasson that I told Don that wasn’t my position. I didn’t want to be put in that position and that Don had to make the initial phone call. I don’t, I honestly do not remember if I called up Hank for additional money or not. I may have but I just don’t remember. I don’t remember if Don made all of the calls. I actually did talk to Hank because there was only like 25 days left and time was of the essence. And he needed to move. If the money was going to come he needed to move it very quickly. **(Exhibit # 5, page 19/ Hujar 8/28/02 interview)**

- 4.52 Tom Hujar met with Hank Hopkins to discuss whether the race was winnable. Mr. Hujar stated:

“And I suggested to Don that Don call these people up and try and raise money from them. Don called them up and the WESCOT Company, a guy named Hank Hopkins asked if I could meet with him. So I met with Hank, I think in Bellevue, but I’m not certain. And Hank talked to me about whether or not I could, whether the races were winnable, what type of candidates there were, just a variety of different questions. And he and Don had a friendship, a relationship for a significant amount of time. So I told Hank that my assessment was that, because there was a, that in order for Don Wasson to win, take over the city council, he had to win basically three out of three races. It was a long shot. But that given enough resources I could almost guarantee that he could win. And I just said that it was a matter of resources and if Don was willing to raise some money or contribute the money that I was fairly certain I could win all three races. **(Exhibit # 4, pages 5, 6/ Hujar 6/26/02 interview)**

- 4.53 Before WESCOT would provide any funding for the campaign, Mr. Hopkins stated they wanted to conduct a survey find out:

“...what the people of Des Moines generally felt about the runway and the conveyor.” **(Exhibit # 3, page 9/ Hopkins 7/31/02 interview)**

“In our opinion, if that turned out to be negative, we would not have probably gone further in any kind of consideration of the project.” **(Exhibit # 3, page 11/ Hopkins 7/31/02 interview)**

- 4.54 Mr. Hujar stated that the decision to conduct the survey was not made at the first meeting:

“Well actually the decision was not made at that point in time because Hank said he needed to meet with his investors and he had to get the clearance for this investor’s group to come up with the money for the project. He needed to know how much money it was going to cost and there were, it was not, here it is. He did call me back and I think we may have had one or two conversations past that to talk specifically about the survey. But the first discussion about doing this market survey was at the first meeting but no firm decisions were made...But in this instance Hank, I think,

had a lot more confidence in my ability to win the campaign than he did Don.” **(Exhibit # 5, page 17, 18/ Hujar 8/28/02 interview)**

“Hank had told me that his company had done a survey, a market survey for his project with Gogerty and Associates around 4 or 5 years ago and that they were planning on going out in the field with another survey to test whether or not their project had any viability or not and asked me if taking a poll and adding on a few horse race questions would be a wise investment of their resources. And I told him it would. So they took a survey and in order to save money, I hired McGuire Research to do the survey on their behalf.” **(Exhibit # 4, page 6/ Hujar 6/26/02 interview)**

“I then took the survey that WESCOT Company had from the Gogerty firm. A lot of the questions that were asked in my survey were identical questions that were asked in the Gogerty survey that was taken three or four years ago. And then what I did when I wrote the analysis was I made a comparative analysis how people’s attitude had changed over the course of that three or four year time period broken out by demographic groups...I wrote a detailed, it took me five days, four or five days to write, to do this comparative analysis of people’s views of the WESCOT Company and whatever other things that we asked. And then I wrote an analysis for them. ..” **(Exhibit # 5, page 12/ Hujar 8/28/02 interview)**

Payments to McGuire Research Services

- 4.55 Hank Hopkins stated in his testimony that Tom Hujar arranged for a survey to be conducted by McGuire Research because WESCOT Company was interested in knowing what the people of Des Moines were thinking and feeling about the issues of the runway. He stated about Hujar, “He was the one that conducted everything. We just gave him the resource to do it.” **(Exhibit # 3, page 8/ Hopkins 7/31/02 interview)**
- 4.56 Mr. Hopkins stated that his company paid \$29,000 to F.D.R. Services for the poll to be conducted. **(Exhibit # 18)** Mr. Hopkins provided copies of the following checks:

<u>Date</u>	<u>Check #</u>	<u>From</u>	<u>To</u>	<u>Amount</u>
10/4/01	0500147496	****	F.D.R.	\$10,000
10/12/01	1227192912	Annon	F.D.R.	\$ 9,500
10/12/01	1227192921	Annon	F.D.R.	\$ 9,500

- 4.57 The cashier's checks to F.D.R. Services did not disclose the identify of the source of the checks. Mr. Hopkins was asked to explain the reason and his attorney, Gregory J. Hollon, responded in a letter dated November 25, 2002:

"You requested information on who purchased the cashier's checks paid to Tom Hujar. Mr. Hopkins obtained the cashier's checks. Our understanding is that the reason EMT was not identified as the purchaser of the cashier's checks is because EMT was trying to keep a 'low profile.'" **(Exhibit # 19)**

- 4.58 Mr. Hopkins told staff that he was told by Mr. Hujar that the payments had to be in cashier's checks. Mr. Hopkins stated:

"Well I believe as I recall he said that they had to have the funds in a rather hurry, big hurry because it was during the election time. And requested that they be in cashier check form because it took time for us to process in our own system a check that has to clear and do all this. He asked me to give him a cashier's check...Well they were purchased by the company not my me, in person...it's cash flow. We have to get money in the bank to make sure we can cover a check and it was a rather last minute request type thing. So we were responding in a time zone that required us to move very quickly." **(Exhibit # 3, page 12/ Hopkins 7/31/02 interview)**

- 4.59 Mr. Hopkins was asked when the payments of the \$20,000 pledge actually took place. He stated:

"We pledged to give him \$20,000 and I think what we actually wound up giving him prior to the election was a portion, half or something like that. And then we later gave him the balance of whatever that 20 was." **(Exhibit # 3, page 16/ Hopkins 7/31/02 interview)**

- 4.60 Tom Hujar confirmed that he asked Hank Hopkins to make payments with cashier's checks because his bank placed three day holds on any other form of payment. Mr. Hujar stated:

"I think I addressed that in the earlier testimony but he had given me that first check for \$10,000 that he had given to me, the Bank of America would put a 5 day hold on it and I was stunned. They had, it wasn't, they had told me that for any major check from that point on that they were putting a 5-day hold holds on them. And in fact

that even if I gave them a certified check from another bank they were going to put a three-day hold on it. And it was this new policy that all of the banks in the United States were doing and they explained to me that the reason for that was because certified checks were being stolen and they had to confirm. I always thought certified checks, cashier's check is a cashier's check. So it was a time problem. I told him that in order for this to work either he had to give me all of the money up front or if it was a cash flow problem on his part I needed a cashier's check from Bank America. Or else it just, I was not going to float I've been in this too long I was not going to float this campaign the amount of money."

(Exhibit # 5, pages 26, 27/ Hujar 8/28/02 interview)

4.61 McGuire Research Services provided a draft of the survey to the PDC. **(Exhibit # 20)** The survey draft consisted of six questions asking the respondent's views on the most important issues facing the community, and opinions regarding construction of the third runway at Sea-Tac. Four questions asked which candidates the respondent planned to vote for. Four additional questions asked the respondent to identify age, length of residency in Des Moines, political party and gender. Mr. Hujar noted that the survey obtained by PDC staff did not contain all questions that were asked.

4.62 Mr. Hopkins stated in his testimony that he had no idea if the poll included questions about the candidates. He further stated that he did not ask to learn about the individual candidates. When asked if he knew if the poll included questions about the individual candidates, he stated:

"No. I had no idea what they actually were. All I was interested in in finding out was what were, what was the thinking of the people of Des Moines. Would they generally be supportive or not. That was the information we really wanted to determine." **(Exhibit # 3, pages 9, 10/ Hopkins 7/31/02 interview)**

4.63 Tom Hujar's testimony conflicted with Mr. Hopkins's statements. Mr. Hujar stated that the survey included "horserace" questions and stated that he had discussed the questions with Hank Hopkins prior to the survey. Mr. Hujar stated:

"He had told me that part of, he wanted part of the survey to be a testing of whether or not they had a chance at winning the race...I gave him a copy of this survey and he read it and he went over the whole thing....Secondly, he asked me specifically to put these [candidate questions] in here because he wanted to know before he

went to his investor's group, he wanted to know whether or not these races were winnable or not." **(Exhibit # 5, pages 13, 14/ Hujar 8/28/02 interview)**

"But for Hank Hopkins to say that he didn't know about these questions just isn't true." **(Exhibit # 5, page 15/ Hujar 8/28/02 interview)**

"I ordered a computer demographic analysis of the City of Des Moines broken out by demographic categories. I matched that with the Gogerty survey." **(Exhibit # 5, page 26/ Hujar 8/28/02 interview)**

"So they took a survey and in order to save some money, I hired McGuire Research to do the survey on their behalf. It was a survey I think around two thirds issues and I think four questions on the horse race. And the poll came back. I went and I made a presentation to Hopkins. I advised him before hand that if in fact he shared any of this information with Don or anyone else that he would have to report it to the PDC and that as an independent expenditure and that I informed Don of the very same thing. So I gave this, the poll to Hank Hopkins and his group. They made an assessment and told me they would be willing to contribute to the campaign." **(Exhibit # 4, page 6/ Hujar 6/26/02 interview)**

"Well as you know when you're doing surveys it's an evolving process and we had gone, I know that I had gone through three or four drafts of the survey and I may have even had Mike Snyder help me. I just don't remember that far back but we were moving questions in and out all of the time based upon what the WESCOT Company wanted and what Hank Hopkins wanted." **(Exhibit # 5, pages 35, 36/ Hujar 8/28/02 interview)**

- 4.64 Mike McGuire of McGuire Research Services told staff that the company doesn't keep results of surveys and all copies are sent to the client. According to Mr. Hujar, he did not keep a copy of the survey. He stated,

" Well I can tell you the survey results basically showed that in every case 60% of the voters were undecided and this was with a pretty restricted, but 60% of the voters were undecided. And that Dan Sherman was ahead of Richard Benjamin by maybe 5 or 6%. Gary Petersen was ahead of David Kaplan by 5-10%, by 5 or 6%, which surprised me. Maggie Steenrod was way ahead of Terry Brazil and that surprised me. And then the largest undecided was

with Mike Foote and Susan White race. But I believe that Susan White was ahead at the time...The polling clearly did not show that there was a clear winner or loser. I mean that's the one lesson of that survey was that anybody could have won the race. There was so many undecided people that it could have gone either way in all of the races except for Maggie Steenrod." **(Exhibit # 5, page 18/ Hujar 8/28/02 interview)**

"I provided copies to Hank Hopkins and then I did a presentation with slides. I did a presentation with, yes with an overhead projection to members of the WESCOT Company and then I answered their questions." **(Exhibit # 5, page 12/ Hujar 8/28/02 interview)**

Additional campaign funds from WESCOT Company.

- 4.65 Mr. Hujar said that the WESCOT Company agreed to provide additional funds for the campaign. He stated:

"Actually when I met with Hank and Don, that is what Don said he wanted money for. He wanted money for signs, he wanted money for posters and for newspaper advertisements and stuff like that...Yeah, the three of us were in a meeting. And Don, I had Don tell him that we needed \$20,000. And Hank had asked how this money was going to be spent and Don came up and he said, and I had said, Well, I don't know if that's how the money should be spent or not. We first have to look, I first have to meet with these candidates and talk to them and see what their strengths and their weaknesses are. What each candidate already is doing in their own campaign. " **(Exhibit # 5, pages 22, 23/ Hujar 8/28/02 interview)**

- 4.66 Hank Hopkins was asked by staff what his purpose in releasing \$20,000 was and what he hoped to accomplish. He stated, "Well, I was hoping that a new thought or a new group of people with new thoughts, open minds would come into the council." **(Exhibit #3, Page 13/ Hopkins 7/31/02 interview)**

- 4.67 Mr. Hopkins denied that it was his intent that the money be used to assist candidates. He stated:

"No candidates per se. It was primarily given for campaign costs and not oriented towards any candidates. The candidates never

were brought up per se in those discussions.” **(Exhibit #3, Page 13/ Hopkins 7/31/02 interview)**

“I had no idea except just to help in his general, his helping the cause, if you will for new thoughts or new people to come into the council. **(Exhibit #3, Page 4/ Hopkins 7/31/02 interview)**

- 4.68 When asked to explain how he meant campaign costs, but not candidates, he stated, “Just like I said before, signs and whatever political people do in campaigns for phones and advertising, yard signs, whatever they do.” **(Exhibit #3, Page 13/ Hopkins 7/31/02 interview)**

Tom Hujar and meetings with Des Moines City Council candidates

- 4.69 Following WESCOT’s pledge for \$20,000 in contributions, Tom Hujar met with the three targeted candidates to assess the campaign needs of each. He stated:

“When the money, when I received the money for the campaign assistance Don had told me that he felt that the, when I met with these candidates I gave them copies of brochures and mailing pieces that I said, ‘I think you guys need to stop doing this stuff that you’re doing and do this type of mailing.’ And they were all pretty overwhelmed by that and so I called up Mike Snyder and I said, ‘Are you available to help these candidates out?’ And on the second meeting that I had with Richard Benjamin I brought, with Richard Benjamin and with and the first meeting that I had with Mike Foote I brought Mike Snyder. I don’t believe that Mike ever met with Gary Petersen because he was gone. And I don’t think that he ever met with Maggie Steenrod. ..the first meeting I talked to them I talked about the races. I brought a packet of material for them to look at in terms of how to, different types of mailing pieces that they should consider doing. When Don called me back up, in fact let me clarify, Don set up these meetings with all four of the candidates. I didn’t set them up, Don set them up. I met with these candidates I gave them the brochures, then afterwards when I knew that we were having money I called up Snyder, brought him in and I said Richard Benjamin is going to be the one that’s going to be the hardest one and we need to make sure that his stuff is very professional. I told him that Gary Petersen was off on vacation and was not accessible and that he was to work with Don Wasson in doing the voter pamphlet statement and I believe print advertisement. Or whatever Don wanted. I’m almost certain he never met with Maggie Steenrod because she didn’t want to have

anything to do with it. And as I told you Don had told me that Mike had no money at all. That we should not put any effort into Mike's campaign because he couldn't win after the KIRO TV expose...He offered to do a write, oh he did an interview with them. .. And he sat down, interviewed them, talked looked at some of the stuff they had done in the primary and then had offered to start drafting brochures for them or whatever work Don wanted for them." **(Exhibit # 5, pages 28, 29, 30/ Hujar 8/28/02 interview)**

4.70 Mr. Hujar described his meetings with individual candidates.

"I met with Mike Foote and I talked with him about his race. I believe I met with him twice. However, during the course of my, from the first discussion to the second discussion a television station reported that Mike had been arrested and had pleaded either guilty or no contendere, I can't remember which one. And I had told Don that there was no way that this guy was going to win and that he shouldn't put any resources into the campaign. So I believe that, I don't think I did anything. I may have given him copies of some brochures, I may have given him some strategic, in fact I did tell him, I did give him some strategic advice about how I thought he should handle the scene that was coming up. That's about all that I did with Mike Foote." **(Exhibit # 4, page 3/ Hujar 6/26/02 interview)**

"In terms of, in terms of Gary Petersen, it was an unusual candidate because this was a gentleman who immediately after the primary left two weeks to go on vacation and had not spent anytime what so ever even in making a voter pamphlet statement. And I think that I met Gary once or twice. And I talked with him briefly about his campaign. I then sat down later on with Don and told him, gave him strategic advice. I told him that I thought Gary probably was going to win the race but that he needed to have some assistance and I told him what that assistance should be...I told him that he needed to have mailings, he had to be in the newspaper. That he had to be substantive because it was clear that although he had name ID that people really didn't know what he stood for. So in terms of direct mailing, in terms of, I told him the type of universes that he should use. I believe that I gave him copies of some brochures that I thought he needed to utilize and I advised him that he needed to do some print advertising." **(Exhibit # 4, pages 3, 4/ Hujar 6/26/02 interview)**

“The third person is Maggie Steenrod and I met with Maggie once. Maggie’s position on this was that she hated politicians. She didn’t want to be a politician; she didn’t want to run a campaign like a politician and that she rejected all of the advice that I gave to her. Except for, well I take that back. At the first meeting, it was a very contentious discussion that I had with her.” **(Exhibit # 4, page 4/ Hujar 6/26/02 interview)**

“And then the fourth candidate that I met with was a candidate named Richard Benjamin and it was very clear to me that Richard Benjamin was probably the weakest of the three candidates. Not if, oh if you take Mike Foote out of the equation, that Benjamin was the weakest candidate and he was running against the strongest candidate in the field. And that he needed the largest amount of assistance and probably needed to run by far the most expensive campaign. So I went back and I give this assessment to Don Wasson. I may have told him, well I did, I told him specifically what all of the candidates needed. The type of assistance that they needed and how much money I thought they would have to spend.” **(Exhibit # 4, page 4/ Hujar 6/26/02 interview)**

Mike Snyder, political consultant hired by F.D.R. Services

- 4.71 Mike Snyder, a political writer, was hired by Tom Hujar to provide campaign assistance to the candidates.

“There was also work done by Mike Snyder who I had hired to work with Don Wasson in writing brochures...Mike not only worked with Don closely in writing brochures, and you’ll have to talk to Don about this or to Mike because I’m not, I gave Mike a flat amount of money and I didn’t really work with him as closely as Don did. But he did some work for, I know that he did some work for Richard Benjamin. He may have done some work for Gary Petersen. I know he did no work at all for Maggie Steenrod...” **(Exhibit # 5, page 3/ Hujar 8/28/02 interview)**

- 4.72 Mr. Hujar provided copies of two checks written from F.D.R. Services to Mike Snyder. Check number 5229 in the amount of \$2,750 was dated November 1, 2001. **(Exhibit# 21)** Check number 5241 in the amount of \$1,000 was dated December 11, 2001. Mr. Hujar’s bank account statements for the months of November and December, 2001, from Bank of America verify the checks provided by Mr. Hujar. **(Exhibit # 22)**

- 4.73 Mr. Snyder stated in an email to PDC staff that \$2,750 was payment for precinct targeting and copy writing (ads and brochures) on behalf of Benjamin, Petersen and Wasson. The second check in the amount of \$1,000 was payment for serving as a recount observer on behalf of Richard Benjamin. Mr. Snyder clarified in a later email that Mr. Wasson should not have been included as a candidate. He allocated approximately 75% (\$2,062.50) of the \$2,750 to Richard Benjamin and 25% (\$687.50) to Gary Petersen. Mr. Snyder stated in his email, "I never met with Petersen directly, though I spoke with him a few times over the phone." **(Exhibit # 23)**

Advocacy calls for Des Moines City Council candidates

- 4.74 Tom Hujar stated that following his interviews with the candidates, that Don Wasson said he wanted to use paid phone banks for persuasion calls for the candidates. When asked if Mr. Hujar discussed the McGuire Research survey and advocacy calls with him, Mr. Wasson testified,

"No, not at all...I don't have any knowledge of it, but I've heard a lot about it...and I wasn't aware of them. I wasn't aware. This is the first time I've heard of any, of his doing that. I've heard rumors to that effect. That there were calls from a company like that, but that's the only knowledge I have." **(Exhibit # 2, pages 5, 6/ Wasson 7/25/02 interview)**

- 4.75 Mr. Hujar testified:

"One of the, one of the things that had to be done, it was very clear was to do a telephone, persuasion phone call on behalf of the candidates. Don had told me that in the last election for city council that the people who were against the third runway project had used phone banks, paid phone banks in order to win the election. And he specifically said that that was one of the things that he wanted to do and I concurred with him. I thought that that was something that they should do. And the WESCOT Company gave a check for, I believe \$5,000." **(Exhibit # 4, pages 7, 8/ Hujar 6/26/02 interview)**

- 4.76 McGuire Research Services provided documents showing the following invoices and payments by F.D.R. Services relating to the Des Moines City Council race. Mr. Hujar's bank account statements for the months of October and November, 2001, from Bank of America verify the checks provided by Mr. Hujar. **(Exhibit #'s 22 and 24)**

<u>Invoice Date</u>	<u>Description</u>	<u>Amount</u>	<u>Date Paid</u>	<u>Check #</u>
10/8/01	Des Moines-Surveys	\$4,000	10/10/01	5212
10/26/01	Washington-GOTV Calls	\$5,000	10/23/01	5223
11/4/01	Benjamin Advocacy calls	\$1,000	10/31/01	5228

- 4.77 According to Mr. Hujar, the advocacy calls were initially planned for only Richard Benjamin and Gary Petersen since Maggie Steenrod had declined any campaign assistance.

“The game plan was to spend money for Richard Benjamin and then for Gary Petersen. Then Don called me up and said, ‘we need to help Maggie out, she’s in trouble.’ So we put some money in there.” **(Exhibit # 5, page 24/ Hujar 8/28/02 interview)**

“...we had this very serious problem with Maggie Steenrod and as I said in my earlier testimony, Maggie Steenrod did not want our assistance. She had told me that she was close to the \$3,500 mark and that she didn’t even want to sit and talk with me because she was afraid that she would have to report it and she really did not want to have anything to do with it. And I had told her at the time I said Maggie there will be a point in time when the other side will send a negative mailing or a negative attack and you’re going to want to talk to me. And if you want to talk to me, call me. And in essence that did happen. There was a negative attack.” **(Exhibit # 5, page 8/ Hujar 8/28/02 interview)**

“Because the ACC had sent out a citywide mailing attacking her...About something or other and they all panicked. So I then put money into a phone bank for Maggie. **(Exhibit # 5, page 24/ Hujar 8/28/02 interview)**

- 4.78 On October 28, 20001, Truth In Aviation, The Newsletter of the Regional Commission of Airport Affairs, Vol. 7, No. 7 was distributed. **(Exhibit# 25)**
The newsletter stated:

“In Des Moines, there are clear differences between the finalists on this issue. At present, all members of the Des Moines Council oppose the runway project and are supporters of the Airport Communities Coalition. However, H. Michael Foote, Jr., a candidate for the open no. 7 position, is a runway supporter, while his opponent, Susan White, opposes the runway. Incumbent Terry Brazil (position 5) is challenged by Maggie Steenrod, who is pro-runway.”

- 4.79 After the Truth in Aviation newsletter was distributed, Maggie Steenrod filed a complaint with the Public Disclosure Commission **(Exhibit # 26)**. Tom Hujar stated that Don Wasson was concerned about the effect of the pro-runway allegation on Maggie Steenrod's campaign. Mr. Hujar stated:

"It was made, Don Wasson called me up and he said we've got to do persuasion calls for Maggie Steenrod. I said, 'Have you talked to Maggie about this because she told me specifically she can't do that?' And he said, 'I talked with her and you need to do it, otherwise she is going to lose the race.' And I then gave him, I told him that, I don't know it was like, I can't even remember how much it was, it was maybe \$1,200 worth of phone calls that was done... I can only tell you that Don, in nearly everything that was done in terms of the work that was done for these candidates was coordinated completely through him." **(Exhibit # 5, pages 8, 9/ Hujar 8/28/02 interview)**

- 4.80 Don Wasson denied any knowledge of the advocacy calls for Maggie Steenrod. He stated:

"And I wasn't aware of them. I wasn't aware, this is the first time I've heard of any, of his doing that. I've heard rumors to that effect. That there were calls from a company like that but that's the only knowledge I have." **(Exhibit # 2, page 6/ Wasson 7/25/02 interview)**

"In fact I had heard stories about these campaign calls, I didn't believe they had occurred until, in fact I didn't know that they occurred until you told me that he spent that money to have them made." **(Exhibit # 1, pages 8, 9/ Wasson 11/12/02 interview)**

- 4.81 Mr. Hujar stated that Maggie Steenrod contacted him when she got feedback that advocacy calls were being made on her behalf. Mr. Hujar stated he told her to contact Don Wasson to ask about the calls. He went on to state:

"She called me up and she said, 'Tom somebody is making calls on my behalf, do you know who it is?' And I said, 'You need to talk to Don about that. You don't need to talk to me.' I said, I told her, 'I can't answer that. You need to talk to Don about that...' Those were the calls through McGuire Research. And Maggie in fact, my understanding was that she was making a lot of those personal phone calls herself. That when I did talk with her and I, I told her

that, she told me that she wasn't going to be making any phone calls or that she couldn't accept any phone calls because she'd go over the \$3,500 limit. I suggested to her that she and her two sons and her husband make phone calls. And when she had called me up about these additional phone calls being made, she had told me, she says, 'I'm making a lot of, my husband and I are making a lot of these phone calls but we ran into a group of people who said that they had already been called on my behalf. And I want to know who it was.' " **(Exhibit # 5, pages 9, 10/ Hujar 8/28/02 interview)**

4.82 Maggie Steenrod was interviewed under oath via telephone on December 6, 2002. She stated that when she learned of advocacy calls made on her behalf, she called Tom Hujar because he was a political consultant. Ms. Steenrod said she asked Tom Hujar, "Did you have anybody make calls on my behalf?" She stated that Mr. Hujar told her, "I did not have anybody make calls from Las Vegas." Ms. Steenrod stated she also asked Don Wasson about the calls and he told her he didn't know anything about them.

4.83 Mr. Hujar told PDC staff that at Mr. Wasson's request, he purchased postage stamps for \$850 with a portion of the money he received from WESCOT Company. Mr. Hujar provided a copy of check number 5220 dated October, 2001, in the amount of \$850 payable to U.S. Post Office. (Exhibit # 43) The check was drawn on F.D.R. Services account at Bank of America. Mr. Hujar stated he purchased the stamps and gave them to Mr. Wasson. Mr. Hujar stated:

"Because he said that one of the candidates was doing a mailing and he said he needed postage stamps." Mr. Hujar stated he did not remember if he was told which candidate the postage stamps were for. "You know he might have but I honestly can't remember what it was for. He was, he was working, he was basically the campaign manager both for Gary Petersen and for Richard Benjamin." **(Exhibit # 5, pages 5, 6/ Hujar 8/28/02 interview)**

4.84 Mr. Hujar stated:

"All of the payments that I received by or within those above entities and quite frankly any money that I had received period, including in my personal account which was not included in the subpoena, was given to me by Hank Hopkins. I did receive a \$1,000 check from Don Wasson, I believe either in late September or early October. And I believe that I had received a subsequent check from Don Wasson of \$1,000 in either November or December. I've listed the

checks that I received from Hank Hopkins. The first was, I received three checks from them for \$29,000 for a market research survey and then I received an additional \$19,800 from them for a variety of political campaign activities.” **(Exhibit # 5, page 4/ Hujar 8/28/02 interview)** (Exhibit# 27)

Discussions regarding the reporting of activities

- 4.85 Mr. Hujar stated he did not keep copies of any invoices, he gave them all to Don Wasson. Mr. Hujar told staff that he couldn’t reproduce the invoices he gave to Mr. Wasson because his laptop computer was stolen. Mr. Hujar stated:

“I almost, in every case provided Don Wasson with invoices for the expenditures for each candidate as they were made. I can’t say that I did this all of the time but I am fairly certain that I did. If I didn’t give it to him, if I didn’t give him a written invoice then I clearly told him over the telephone exactly how much money he needed to attribute to each one of the campaigns.” **(Exhibit # 5, pages 6, 7/ Hujar 8/28/02 interview)**

“...I am fairly certain that I put the amounts that had to be attributed to each candidate...” “I can only tell you that Don, in nearly everything that was done in terms of the work that was done for these candidates was coordinated completely through him.” **(Exhibit # 5, pages 8/ Hujar 8/28/02 interview)**

- 4.86 During the second interview with Mr. Hujar, he was asked to describe whose campaign he felt this was.

“There was no question in either my mind or I think Hank’s mind that it was Don’s show. That Don was, Don told us that you know, I think I told you, he said that he had always been on the losing end of 6 to 1 votes and that he wanted to leave the City of Des Moines in good hands and he wanted to be Mayor. And that he had recruited these four candidates, at least three of the, he had recruited three of the candidates and that if they won the campaign he was going to become Mayor of Des Moines and that was his lifelong dream. There was just, you know I think you have to look at how often I was in contact with these individuals. I mean I hardly talked to any of them and I think I spoke with Don maybe every other...he recruited Richard Benjamin. No I take that back. He recruited Gary Petersen. He has a very funny story about how he recruited both Gary Petersen and Maggie Steenrod. They were

very reluctant candidates and did not file until the very last day. And I believe he recruited Mike Foote. I'm not sure if he recruited Richard Benjamin. I think Richard was, there were two candidates in the race that both were going to be supporting Don and Don did not get involved in the primary and was surprised that Richard had won the primary." . **(Exhibit # 5, pages 19. 20/ Hujar 8/28/02 interview)**

- 4.87 Mr. Hujar was asked if he had any discussions with Don Wasson about reporting issues with the PDC and he stated:

"All the time. And you know there was from the very outset between with Hank Hopkins and with Don I had told them that they had to make a decision on whether this was going to be an independent campaign committee, which we could have done very easily. Or whether this was going to be campaign contributions directly to the candidates and they made that decision very clear...Their decision was that this was going to be campaign contributions from WESCOT Company, that the money was going to, how the money was spent was going to be jointly between Don Wasson and myself, on how the money was going to be spent. And that Don was going to be the one because he was the campaign manager in essence for Richard and Gary and I thought initially with Maggie until I met with her, that he was going to be the one that was going to take care of the PDC stuff. And I don't know who actually did the public disclosure documents. I always assumed and he led me to believe at least for Gary Petersen that he was doing the public disclosure things." **(Exhibit # 5, pages 20, 21/ Hujar 8/28/02 interview)**

- 4.88 Staff asked Mr. Hujar if he meant Don Wasson was reporting to the candidates that they had received in-kind contributions or if Mr. Wasson was filling out his own reports.

"No, I thought that he was filing. He led me to believe and maybe not directly but indirectly, I actually thought that Don was drafting and creating the public disclosure documents at least for Gary Petersen. I mean just some of the comments that he had made to me about about how he had to, he asked me questions about he had to fill out the C3's or something. I would be very surprised if he did not actually, was the person who wrote the PDC documents for Gary Petersen. I was led to believe that and I remember specifically in one instance that he had told me that Richard did not get one of his documents in time and that he needed to help him do

it. He needed to meet with him and do some public disclosure documents. And at the very outset I thought that he was also doing it for Maggie Steenrod but then she made it very clear to me that nobody was doing anything other than herself.” **(Exhibit # 5, page 21/ Hujar 8/28/02 interview)**

- 4.89 Mr. Hujar was asked if he ever had any discussions about concealing with Hank Hopkins.

“No. I had, you know at the very outset as I said we had a discussion about how this was going to be reported I had a very clear conversation with both of them about the route that they could take, the pluses and the minuses in terms of doing an independent campaign committee which I know how to do from past experiences. And direct contributions...I don’t think, Hank said that he didn’t want to do an independent campaign committee because of the publicity that it would give to the WESCOT Company. He wanted nothing to do with it. Don, I mean that was basically the end of the conversation. Don said, ‘Well I have no problem with the candidates reporting the money.’” **(Exhibit # 5, pages 32, 33/ Hujar 8/28/02 interview)**

- 4.90 When asked to estimate how much of the money allocated to the candidates could be attributed to Richard Benjamin, Mr. Hujar stated, “Out of the \$19,000? God, I think, you know probably \$13,000 went to him.” **(Exhibit # 5, page 31/ Hujar 8/28/02 interview)**

- 4.91 Tom Hujar provided the PDC with an expense summary **(Exhibit# 28)** dated September 16, 2002, indicating a breakdown of the funds received from Hank Hopkins. Of the \$19,800 spent on campaign activities, he allocated it as follows:

Mike Foote	\$ 500
Gary Petersen	\$ 3,500
Maggie Steenrod	\$ 1,000
Richard Benjamin	\$14,800

- 4.92 Mr. Hujar was asked how he separated the work that was done for Don Wasson and the work for Hank Hopkins. He stated:

“Outside of the political survey they were one in the same as far as I was concerned. Don and Hank knew each other. They acted as if they had been friends for over 8-10 years. And I say that because I remember they had some personal conversations about

wives and things like that. So when we had, after the survey was done and the WESCOT Company decided that they were going to be involved in the campaign Hank wanted my assurances that the money, he said, 'How much money will it take to win these races for Don?' And I told him that if I had \$20,000 it would be like, I used the expression it would be like ducks, shooting ducks in a pond. That's what I said. And I had, there was no question in my mind that we could win the races. Both Hank Hopkins and Don Wasson talked all the time. That was my impression." **(Exhibit # 5, pages 34, 35/ Hujar 8/28/02 interview)**

- 4.93 Hank Hopkins testified that he was unaware of any reporting requirements to the PDC. Staff asked Mr. Hopkins if Tom Hujar discussed reporting obligations to the PDC at the time WESCOT gave him \$20,000. He stated:

"No. He didn't mention those. I did ask him if everything was okay in the sense for us to do this and I took his answer as yes, it's okay. And that meant to me if there was anything wrong or would have been wrong I would have been told. But I didn't hear anything that there was anything wrong with it so I assumed it's okay...Oh, I assumed there wouldn't be anything illegal about it...No he didn't. I didn't have much contact about that at all. Basically after I gave him the \$20,000 he just went to work." **(Exhibit # 3, pages 14, 15/ Hopkins 7/31/02 interview)**

- 4.94 Hank Hopkins later provided documents that included copies of checks paid to F.D.R. Services and an expense summary emailed to Hank Hopkins from Tom Hujar on December 10, 2001. **(Exhibit #'s 27, 29)**

- 4.95 Tom Hujar, after reviewing a copy of the December 10, 2001 expense summary, stated:

"I had just flown in. This thing says it's December. I had just flown in or I was just flying out, I can't remember at this date. I believe that I had just flown in from Istanbul and I got, there were numerous phone calls for me from Hank Hopkins telling me that he wanted me to provide a summary, an expense summary for his group that was having a meeting on that date. I told him that not only was I jet lagged but that I had a difficult time putting a line item on all of this stuff and he said put together whatever you want but I need something for this meeting and that's what I did. It is not an accurate reflection of the actual expenses that were made. You know for instance the McGuire Research stuff, I have a \$12,000,

\$7,000 for persuasion calls that wasn't there. You know I never used Anne Payne to do the writing and the graphics I just put it down there. But he told me and I told him when I called him up I said you know, this is not an accurate reflection. If you want one afterwards I'll give you one but I was just stressed and I needed to get something out to him. But in an effort for full disclosure I told Hank that I thought he needed to disclose this to you even though it's not what it appears to be and I'm including it in mine for you to look at. And when I get all of the checks I will give you a detailed summary of where all of the money was spent." **(Exhibit # 5, pages 10, 11/ Hujar 8/28/02 interview)**

H.M. Foote, Jr.

- 4.96 M.H. "Mike" Foote, Jr. filed a Candidate Registration Statement (PDC Form C-1) with the PDC on August 7, 2001 declaring his candidacy for Des Moines City Council. He filed his Financial Affairs Statement (PDC Form F-1) on June 28, 2001. Mr. Foote's C-1 Form indicated he chose the mini-reporting option for which he would not raise or spend more than \$3,500 and would not accept more than \$300 in the aggregate from any contributor except himself. Mr. Foote was defeated by 751 votes by Susan White.
- 4.97 On November 5, 2001, an anonymous flyer was circulated in Des Moines. The flyer made personal and political allegations against four Des Moines City Council candidates, three were incumbents, in addition to the Des Moines City Manager, the Mayor and his wife and the Mayor Pro Tem and his wife.
- 4.98 On April 1, 2002, Robert P. Awford filed a complaint with the Public Disclosure Commission, PDC No. 02-292, alleging that H. M. "Mike" Foote, Jr. and Wayne Bader violated RCW 42.17.130 and RCW 42.17.510 by using public facilities to reproduce a campaign flyer that made offensive accusations against Des Moines city officials and candidates. The flyer was distributed in the community without sponsor identification.
- 4.99 David Kaplan alleged that Mike Foote used public facilities of Water District #54 to write and copy an anonymous campaign flyer and did not report the independent expenditure and did not provide sponsor identification.
- 4.100 Investigation of the portion of the complaint regarding use of public facilities has been suspended until the outcome of a separate case concerning RCW 42.17.130 is decided by the State Supreme Court.

- 4.101 On April 24, 2002, and May 7, 2002, H.M. "Mike" Foote, Jr. submitted written responses to the PDC. Mr. Foote only addressed the portion of the complaint regarding the flyer distributed prior to the election. He denied any involvement in producing the flyer. The majority of his response was supporting his claims of a conspiracy against him by his political opponents. Mr. Foote did not address the additional allegations of failure to meet the mini reporting requirement for his campaign in his letters.
- 4.102 On May 1, 2002, Wayne Bader responded in writing to a request from the PDC for any information regarding Robert Awford's complaint. He denied Mr. Awford's allegation that he was present when Mr. Foote allegedly used Water District facilities to produce the flyer distributed prior to the election.
- 4.103 David Kaplan alleged Mike Foote violated the mini-reporting limits by receiving in-kind contributions from Des Moines City Councilmember Don Wasson and monetary contributions from The Marina Tenants Association.
- 4.104 Mr. Foote testified under oath that no one helped him create his brochures. When asked if he talked with anyone about how to set up the flyers, he stated, "No. Well like I say other than just people that I know that were interested in my campaign but nobody that I ever hired to do anything." **(Exhibit # 30)**
- 4.105 PDC staff interviewed Political Consultant Tom Hujar on June 26, 2002. Mr. Hujar stated:
- "So, I met with Mike Foote and I talked with him about his race. I believe I met with him twice....I may have given him copies of some brochures, I may have given him some strategic, in fact, I did give him some strategic advice about how I thought he should handle the scene that was coming up." **(Exhibit # 4, page 3/ Hujar 6/26/02 interview)**
- 4.106 In discussing advocacy calls for the candidates, Mr. Hujar stated:
- "We did nothing for Mike Foote. Don Wasson had told me, had called me up and said that there was this KIRO thing about Mike Foote that Mike had no chance at all in the campaign and asked me to make a contribution to him." **(Exhibit # 5, page 25/ Hujar 8/28/02 interview)**

“Although you and I spoke about the fact that I had done, I had met with Mike Foote once or twice and I had talked with him and I gave him some advice on what to do. In reality I had also given him a \$500 personal contribution out of my personal checking account.”
(Exhibit # 5, page 2/ Hujar 8/28/02 interview)

- 4.107 Mr. Hujar provided a copy of check #7763, drawn on American Marine Bank, dated October 22, 2001, made out to “Mike Foote Campaign” and endorsed on the back by H. M. Foote. **(Exhibit # 31)**
- 4.108 Tom Sitterley, President of the Des Moines Marina Tenant Association was interviewed by PDC staff on July 30, 2002. He stated that the Marina Tenant Association donated \$1,000 to Mike Foote’s campaign. Mr. Sitterly provided a copy, front and back, of check number 1106, dated October 6, 2001, to Mike Foote in the amount of \$1,000.00. The back of the check was endorsed by H. M. Foote, Jr., and showed a cancellation date of October 9, 2001. Mr. Sitterley also provided copies of the Marina Tenants Association bank statement showing that transaction. (Exhibit # 32)
- 4.109 In an interview on July 31, 2002 with Mr. Foote, he stated that he received a \$1,000 contribution from the Marina Tenant Association. Mr. Foot stated he thought receiving a \$1,000 contribution from a single source did not violate the mini reporting requirements because his total contributions did not exceed \$3,500.
- 4.110 On June 27, 2002, PDC staff interviewed Mr. Foote and asked him to produce his campaign records, and he stated, “I had complete records and someone broke into my boat here during the campaign and took my whole box of stuff that I had. But I did send in my little forms that we had to send in.” He stated he used his personal bank account for his campaign and would obtain copies of his bank statements and all campaign checks by July 5, 2002. Mr. Foote did not provide any campaign records.
- 4.111 PDC staff contacted Sgt. Collins of the Des Moines Police Department. Sgt. Collins told staff that Mr. Foote reported being the victim of threatening letters, but did not provide an official statement or complaint alleging that a burglary or theft had occurred or that his campaign records had been stolen.

Gary Petersen

- 4.112 Gary Petersen filed a Candidate Registration (PDC Form C-1) with the PDC on August 27, 2001 declaring his candidacy for Des Moines City Council. He filed his Financial Affairs Statement (PDC Form F-1) on August 27, 2001. Mr. Petersen chose the full reporting option for his campaign and reported raising \$10,550 and spending \$10,458.68. He was elected to Position 3 on the Des Moines City Council November 6, 2001, defeating incumbent David Kaplan by 219 votes
- 4.113 David Kaplan alleged that advocacy calls were made on October 27, 29, 30 and 31, 2002 supporting Des Moines City Council candidates Richard Benjamin, Gary Petersen and Maggie Steenrod. The candidates did not report these calls as an expenditure made by their respective campaigns, nor did they report receiving an in-kind contribution, nor was an independent expenditure report submitted regarding the calls.
- 4.114 Gary Petersen was interviewed under oath by PDC staff on July 3, 2002. Staff asked him if he knew who arranged for the advocacy calls and who paid for them. Mr. Petersen stated:
- “I’m not familiar with any of that. I don’t even know that they were made and I don’t know who paid for them, if anybody did at all or they were real...I had no knowledge of it at all until it was addressed in David Kaplan’s complaint regarding me.” **(Exhibit # 33)**
- 4.115 Political consultant, Tom Hujar stated that Don Wasson contacted him in September of 2001. According to Mr. Hujar, Mr. Wasson agreed to pay him \$2,000 to meet with the candidates and provide strategy and brochures from previous campaigns. WESCOT Company funded a survey with McGuire Research Services. The survey results indicated that 60% of the Des Moines voters were undecided. Mr. Hujar stated that after presenting the results of the survey, “I made it very clear to Hank Hopkins and I made it very clear to Don Wasson that they were not to share the information. That if it was, then they would have to start, then they would have to declare part of this survey as an in-kind contribution. I had a very specific question with them about that.” **(Exhibit # 5, page 15/ Hujar 8/28/02 interview)**
- 4.116 Mr. Hujar stated that following the survey, the WESCOT Company contributed \$20,000 toward the campaign, giving Mr. Hujar and Mr. Wasson discretion in spending the funds.

4.117 “Their decision was that this was going to be campaign contributions from WESCOT Company, that the money was going to, how the money was spent was going to be jointly between Don Wasson and myself, on how the money was going to be spent. And that Don was going to be the one because he was the campaign manager in essence for Richard and Gary and I thought initially with Maggie until I met with her, that he was going to be the one that was going to take care of the PDC stuff.” **(Exhibit # 5, page 20/ Hujar 8/28/02 interview)**

4.118 Once WESCOT Company committed to contributing to the campaign, Mr. Hujar met with the candidates to determine the allocation of funds.

“In terms of Gary Petersen, it was an unusual candidate because this was a gentleman who immediately after the primary left two weeks to go on vacation and had not spent anytime what so ever even in making a voter pamphlet statement. And I think that I met Gary once or twice. And I talked with him briefly about his campaign. I then sat down later on with Don and told him, gave him strategic advice. I told him that I thought Gary probably was going to win the race but that he needed to have some assistance and I told him what that assistance should be...I told him that he needed to have mailings, he had to be in the newspaper. That he had to be substantive because it was clear that although he had name ID that people really didn't know what he stood for. So in terms of direct mailing, in terms of, I told him the type of universes that he should use. I believe that I gave him copies of some brochures that I thought he needed to utilize and I advised him that he needed to do some print advertising.” **(Exhibit # 4, page 3, 4/ Hujar 6/26/02 interview)**

4.119 After meeting with the candidates, Mr. Hujar stated that it was clear that persuasion phone calls on behalf of the candidates were necessary. According to Mr. Hujar, the advocacy calls were initially planned for only Richard Benjamin and Gary Petersen since Maggie Steenrod had declined any campaign assistance. “The game plan was to spend money for Richard Benjamin and then for Gary Petersen.”

4.120 McGuire Research Services provided copies of invoices and payments by F.D.R. Services for the survey and advocacy calls. (Exhibit # 24) The 10/26/01 invoice for \$5,000 related to advocacy calls placed for Gary Petersen, Richard Benjamin and Maggie Steenrod. The 11/4/01 invoice related to advocacy calls for Richard Benjamin only.

<u>Invoice Date</u>	<u>Description</u>	<u>Amount</u>	<u>Date Paid</u>	<u>Check #</u>
10/8/01	Des Moines-Surveys	\$4,000	10/10/01	5212
10/26/01	Washington-GOTV Calls	\$5,000	10/23/01	5223
11/4/01	Benjamin Advocacy calls	\$1,000	10/31/01	5228

- 4.121 Mr. Hujar stated that he arranged for Mike Snyder to meet with the candidates to write brochures. He stated, "...So I called up Mike Snyder and I said are you available to help these candidates out...I don't believe that Mike ever met with Gary Petersen because he was gone." (**Exhibit # 5, pages 28, 29/ Hujar 8/28/02 interview**)
- 4.122 Mr. Snyder stated in an email (**Exhibit # 23**) to PDC staff that he was paid to work with candidates. The \$2,750 was for precinct targeting and copy writing (ads and brochures) on behalf of Benjamin, Petersen and Wasson. He allocated approximately 75% (\$2,062.50) of the \$2,750 to Richard Benjamin and 25% (\$687.50) to Gary Petersen. Mr. Snyder stated in his email, "I never met with Petersen directly, though I spoke with him a few times over the phone."
- 4.123 Mr. Hujar stated that there was no question that Don Wasson was in control of the campaigns. He stated he told Hank Hopkins and Don Wasson that they had to make a decision on whether this was going to be an independent campaign committee or whether the candidates would report the campaign contributions.
- "...Their decision was that this was going to be campaign contributions from WESCOT Company, that the money was going to, how the money was spent was going to be jointly between Don Wasson and myself, on how the money was going to be spent. And that Don was going to be the one because he was the campaign manager in essence for Richard and Gary and I thought initially with Maggie until I met with her, that he was going to be the one that was going to take care of the PDC stuff. And I don't know who actually did the public disclosure documents. I always assumed and he led me to believe at least for Gary Petersen that he was doing the public disclosure things." (**Exhibit # 5, page 20/ Hujar 8/28/02 interview**)
- 4.124 Tom Hujar provided the PDC with an expense summary (**Exhibit # 28**) providing a breakdown of the funds received from Hank Hopkins. Of the \$19,800 spent on campaign activities, he allocated it as follows:

Mike Foote	\$ 500
Gary Petersen	\$ 3,500
Maggie Steenrod	\$ 1,000
Richard Benjamin	\$14,800

- 4.125 David Kaplan alleged that Gary Petersen failed to report on his August 27, 2001 F-1 Report oral contracts with the City of Des Moines Police department and the City of Des Moines for earnings of approximately \$252,000 yearly by his towing business.
- 4.126 Gary Petersen submitted Form F-1, Personal Financial Affairs Statement to the PDC on August 27, 2001. **(Exhibit # 34)** The Form F-1 covered the period of the previous 12 months, August 2000 through August 2001. The form reported income from Petersen NorthWest Corporation and Petersen NW Corporation Rental. The F-1 Supplement Page did not list any payments received from governmental units or from business customers in which Mr. Petersen holds or seeks office. Nothing was listed for Payments Entity received from business customers and government agencies over \$7,500.
- 4.127 On April 23, 2002, Mr. Petersen submitted Form F-1, Personal Financial Affairs Statement **(Exhibit # 35)** to the PDC. The Form F-1 covered the period of the previous calendar year, January 1, 2001 through December 31, 2001. In the section, Payments Entity received from governmental unit in which you seek/hold office, Mr. Petersen reported \$2,502.20 was received from the City of Des Moines. The report also indicated that payments over \$7,500 were received from Federal Aviation Administration for Mobile Home Movement Services.
- 4.128 On August 15, 2002, staff spoke with Des Moines Police Chief Don Obermiller. Chief Obermiller stated neither the City of Des Moines nor the Des Moines Police Department had written or oral contracts with Pete's Towing, owned by Gary Petersen. Chief Obermiller said Pete's Towing is the only licensed towing service operating in the city and towing calls are referred only to towing businesses licensed with the City of Des Moines. If another licensed towing business was available, the calls would be referred on a rotating basis. He stated that in most cases, the vehicle owner of the towed vehicle pays the towing and impound fees, not the City or the Police Department. Occasionally, a city-owned vehicle is towed by Pete's Towing and those services are then paid for with City funds.
- 4.129 Documents were provided from Linda A. Marousek, City Attorney, summarizing the amounts paid to Pete's Towing by the City of Des Moines during the periods indicated on Mr. Petersen's F-1 reports. **(Exhibit #36)**

<u>F-1 Date</u>	<u>Period Covered</u>	<u>Amount Pd</u>
8/27/01	August 1, 2000 to August 1 2001	\$1,550.84
4/23/02	January 1, 2001 to December 31, 2001	\$2,195.12

- 4.130 Mr. Petersen provided PDC staff with an itemized list of payments from the City of Des Moines for the year 2001. The document report \$1,792.31 was received. It appears Mr. Petersen's list is missing three December 21, 2001 payments totaling \$403.11 that were included on Ms. Marousek's list. **(Exhibit # 37)**
- 4.131 On December 10, 2001, Gary Petersen submitted a C-4 Report covering the period October 31, 2001 to December 10, 2001 reporting a \$500 contribution. The attached Schedule A listed the contribution with a November 1, 2001 date of deposit. A C-3 report was not submitted to PDC for that contribution until July 1, 2002, 243 days late. He stated he was sure his daughter sent the report to the PDC on time, but resubmitted it on July 1st. **(Exhibit # 38)**
- 4.132 David Kaplan alleged that Gary Petersen failed to report a \$1,000 contribution from the Des Moines Marina Tenant's Association. Mr. Kaplan's complaint stated, "Des Moines Marina Tenant Association President Thomas Sitterley publicly bragged repeatedly about making \$1,000 contributions to all four candidates (Benjamin, Foote, Petersen and Steenrod.)"
- 4.133 Staff interviewed Thomas Sitterley on July 30, 2002. He stated that the Marina Tenants Association made \$1,000 contributions to the campaigns of Richard Benjamin and Mike Foote. No contributions were made to any other candidates. He provided copies of the Marina Tenants Association bank records and the checks that were written to the two candidates. (Exhibit # 32) The checks showed contributions to Mr. Benjamin and Mr. Foote only. Mr. Sitterley told staff that the Marina Tenants Association also made a list of candidate recommendations in the membership newsletter. The recommendations were made without consultation with the candidates. The total cost of the newsletter was \$151.49.
- 4.134 David Kaplan alleged Gary Petersen incorrectly reported on his C-3 report the date of a \$5,000 contribution his company made to his campaign in order to avoid the restriction on receiving over \$5,000 in contributions in the 21 days before a general election. Beginning October 16, 2001, a candidate is not permitted to receive contributions totaling over \$5,000 in

the aggregate from any one source. Mr. Petersen's campaign contributions are listed below: **(Exhibit # 39)**

<u>Date Received</u>	<u>Contributor's Name</u>	<u>Type</u>	<u>Amount</u>
10/5/01	Gary W Petersen	Monetary	\$2,000
10/12/01	Petersen NW Corp	Monetary	\$5,000
10/29/01	Petersen NW Corp	Monetary	\$2,000
11/1/01	Petersen NW Corp	Monetary	\$ 500
11/1/01	Don Wasson	In-Kind/printing	\$ 300
11/1/01	Don Wasson	In-Kind/consulting	\$ 750
	Total		\$10,550

- 4.135 Mr. Petersen's bookkeeper, Cathy Naverud, was interviewed under oath on August 21, 2002. She stated that she completed the PDC reports for Mr. Petersen's campaign. Ms. Naverud told staff that Mr. Petersen's campaign did not maintain a separate bank account and funds in the corporate account were earmarked for the campaign as needed. The funds reported on the C-3 reports were actually available on the dates reported and were not reported early to avoid 21 day pre-general election contribution limits.

Richard Benjamin

- 4.136 Richard Benjamin filed a Candidate Registration Statement (PDC Form C-1) with the PDC on August 7, 2001 declaring his candidacy for Des Moines City Council. He filed his Financial Affairs Statement (PDC Form F-1) on August 7, 2001. Mr. Benjamin's campaign chose the full reporting option reported raising \$4,120 and spending \$6,062.23 on his campaign. He was elected to the Des Moines City Council, Position 1, on November 6, 2002. He defeated incumbent Dan Sherman by 8 votes. Mr. Benjamin was appointed Mayor Pro Tem in March, 2002.
- 4.137 On October 22, 2001, the Public Disclosure Commission received a complaint from Ronald F. Clark alleging Richard Benjamin, a candidate seeking election to the Des Moines City Council did not timely report expenditures and contributions for his campaign. The complaint was dismissed March 28, 2002.
- 4.138 David Kaplan alleged advocacy calls were made on October 27, 29, 30 and 31, 2002 supporting Des Moines City Council candidates Richard Benjamin, Gary Petersen and Maggie Steenrod. The candidates did not

report these calls as an expenditure or an in-kind contribution to the PDC, nor was an independent expenditure report submitted regarding the calls.

- 4.139 Richard Benjamin was interviewed under oath on July 10, 2002. Mr. Benjamin was asked if he was familiar with the advocacy calls that were made in Des Moines just prior to the election for three of the candidates. He stated "I don't know anything about that....I've heard allegations of it but I never received any calls or any of my neighbors." (Exhibit # 40) Mr. Benjamin stated he never discussed any advocacy calls with Don Wasson or Tom Hujar. Mr. Benjamin stated he never received any contributions from WESCOT Company.
- 4.140 Political Consultant, Tom Hujar stated that Don Wasson, contacted him in September of 2001. According to Mr. Hujar, Mr. Wasson initially paid him \$2,000 to meet with the candidates and provide strategy and brochures from previous campaigns. WESCOT Company funded a survey with McGuire Research Services. The survey results indicated 60% of the Des Moines voters were undecided. Mr. Hujar stated that after presenting the results of the survey, "I made it very clear to Hank Hopkins and I made it very clear to Don Wasson that they were not to share the information. That if it was, then they would have to start, then they would have to declare part of this survey as an in-kind contribution. I had a very specific question with them about that." **(Exhibit # 5, page 15/ Hujar 8/28/02 interview)**
- 4.141 Mr. Hujar stated that following the survey, the WESCOT Company contributed \$20,000 toward the campaign, giving Mr. Hujar and Mr. Wasson discretion in spending the funds.
- "Their decision was that this was going to be campaign contributions from WESCOT Company, that the money was going to, how the money was spent was going to be jointly between Don Wasson and myself, on how the money was going to be spent. And that Don was going to be the one because he was the campaign manager in essence for Richard and Gary and I thought initially with Maggie until I met with her, that he was going to be the one that was going to take care of the PDC stuff. " **(Exhibit # 5, page 20/ Hujar 8/28/02 interview)**
- 4.142 After meeting with the candidates, Mr. Hujar stated:
- "...One of the, one of the things that had to be done, it was very clear was to do a telephone, persuasion phone call on behalf of the candidates. Don had told me that in the last election for city council

that the people who were against the third runway project had used phone banks, paid phone banks in order to win the election. And he specifically said that that was one of the things that he wanted to do and I concurred with him. I thought that that was something that they should do. And the WESCOT Company gave a check for, I believe \$5,000...That's what went to McGuire Research." **(Exhibit # 4, page 7, 8/ Hujar 6/26/02 interview)**

4.143 Mr. Hujar described the advocacy calls,

"...We did persuasion phone calls, for instance in terms of the \$5,000 persuasion phone calls...The game plan was to spend money for Richard Benjamin and then for Gary Petersen... And then in the last four days of the campaign I knew that both Gary and Maggie had won. And I then put, but I knew that Richard was the swing. I knew that he was going to be the tough one so I put additional phone money into Richard Benjamin. You're, I know what you're thinking and that is is that I had a set budget and that we went and we spent it. It was a race where it was just a very fluid situation and that I made decisions on the money based upon what I saw was going on there. And as you can see the flow of it was initially we were going to do two candidates then we did three candidates and then I did one additional phone bank operation for Richard Benjamin at the very end. None of that was ever planned. It was just my feel of the situation and the determination that Richard needed more help than any of the other candidates... I called him up and I said that I needed at least \$1,000 worth of phone calls for Richard. And that was above and beyond what we had originally planned because I knew that the other two candidates had won. I knew that Richard was going to be close and that's why we put more money into it." **(Exhibit # 5, pages 23, 24, 25/ Hujar 8/28/02 interview)**

4.144 McGuire Research Services provided documents **(Exhibit # 24)** showing the following invoices and payments by F.D.R. Services relating to the Des Moines City Council race.

<u>Invoice Date</u>	<u>Description</u>	<u>Amount</u>	<u>Date Paid</u>	<u>Check #</u>
10/8/01	Des Moines-Surveys	\$4,000	10/10/01	5212
10/26/01	Washington-GOTV Calls	\$5,000	10/23/01	5223
11/4/01	Benjamin Advocacy calls	\$1,000	10/31/01	5228

- 4.145 Mr. Hujar stated he arranged for Mike Snyder to meet with the candidates to write brochures. He stated:

“So I called up Snyder, brought him in and I said Richard Benjamin is going to be the one that’s going to be the hardest one and we need to make sure that his stuff is very professional... But I know that he met with Richard Benjamin, talked to him and he did quite a bit of again, the bulk of the resources for this, for the WESCOT contributions went into Richard Benjamin’s campaign because he was the only one that was, that I thought could lose... Out of the \$19,000? God I think, you know probably \$13,000 went to him.”
(Exhibit # 5, pages 29, 30/ Hujar 8/28/02 interview)

- 4.146 Tom Hujar provided copies of the checks totaling \$3,750 for payment for campaign services for the Des Moines City Council race. **(Exhibit # 21)** Mr. Snyder stated in an email **(Exhibit # 23)** to PDC staff that \$2,750 was for precinct targeting and copy writing (ads and brochures) on behalf of Benjamin, Petersen and Wasson. The remaining \$1,000 was for serving as a recount observer on behalf of Richard Benjamin. Mr. Snyder clarified in a later email that Mr. Wasson should not have been included as a candidate. He allocated approximately 75% (\$2,062.50) of the \$2,750 to Richard Benjamin and 25% (\$687.50) to Gary Petersen. Mr. Snyder stated in his email, “I never met with Petersen directly, though I spoke with him a few times over the phone. I met several times with Benjamin.”
- 4.147 Mr. Hujar stated that there was no question that Don Wasson was in control of the campaigns. He stated he told Hank Hopkins and Don Wasson that they had to make a decision on whether this was going to be an independent campaign committee or whether the campaign contributions would be reported by the candidates.

“...Their decision was that this was going to be campaign contributions from WESCOT Company, that the money was going to, how the money was spent was going to be jointly between Don Wasson and myself, on how the money was going to be spent. And that Don was going to be the one because he was the campaign manager in essence for Richard and Gary and I thought initially with Maggie until I met with her, that he was going to be the one that was going to take care of the PDC stuff. And I don’t know who actually did the public disclosure documents. I always assumed and he led me to believe at least for Gary Petersen that he was doing the public disclosure things.” **(Exhibit # 5, page 20/ Hujar 8/28/02 interview)**

- 4.148 Tom Hujar provided the PDC with an expense summary (**Exhibit # 28**) providing a breakdown of the funds received from Hank Hopkins. Of the \$19,800 spent on campaign activities, he allocated it as follows:

Mike Foote	\$ 500
Gary Petersen	\$ 3,500
Maggie Steenrod	\$ 1,000
Richard Benjamin	\$14,800

Maggie Steenrod

- 4.149 On August 10, 2001, Maggie Steenrod filed a Candidate Registration (PDC Form C-1) with the PDC on November 6, 2001 declaring her candidacy for Des Moines City Council. She filed her Financial Affairs Statement (PDC Form F-1) on August 10, 2001. Ms. Steenrod's C-1 Form indicated that she chose the mini-reporting option for which she would not raise or spend more than \$3,500 and would not accept more than \$300 in the aggregate from any contributor except herself. Maggie Steenrod was elected to the Des Moines City Council, Position 5, on November 6, 2002. She defeated incumbent Terry Brazel by 920 votes.
- 4.150 David Kaplan alleged that advocacy calls were made on October 27, 29, 30 and 31, 2002 supporting Des Moines City Council candidates Richard Benjamin, Gary Petersen and Maggie Steenrod. The candidates did not report these calls as an expenditure or an in-kind contribution to the PDC, nor was an independent expenditure report submitted regarding the calls.
- 4.151 Maggie Steenrod stated in her written response (**Exhibit # 41**) to the PDC:
- “...at no time did I hire or pay anyone to make telephone calls on my behalf, nor do I have knowledge of anyone who did so.” She went on to state that she created and produced her own flyers, publications, and other materials used in her campaign. “No campaign consultant produced anything for my election campaign; therefore I would have not have reported contribution, in-kind or otherwise.”
- 4.152 Political consultant Tom Hujar stated that Don Wasson contacted him in September of 2001. According to Mr. Hujar, Mr. Wasson initially paid him \$2,000 to meet with the candidates and provide strategy and brochures from previous campaigns. WESCOT Company funded a survey with McGuire Research Services. The survey results indicated 60% of the Des Moines voters were undecided. Mr. Hujar stated that after presenting the

results of the survey, "I made it very clear to Hank Hopkins and I made it very clear to Don Wasson that they were not to share the information. That if it was, then they would have to start, then they would have to declare part of this survey as an in-kind contribution. I had a very specific question with them about that." **(Exhibit # 5, page 15/ Hujar 8/28/02 interview)**

- 4.153 Mr. Hujar stated that following the survey, the WESCOT Company contributed \$20,000 toward the campaign, giving Mr. Hujar and Mr. Wasson discretion in spending the funds.

"Their decision was that this was going to be campaign contributions from WESCOT Company, that the money was going to, how the money was spent was going to be jointly between Don Wasson and myself, on how the money was going to be spent. And that Don was going to be the one because he was the campaign manager in essence for Richard and Gary and I thought initially with Maggie until I met with her, that he was going to be the one that was going to take care of the PDC stuff. " **(Exhibit # 5, page 20/ Hujar 8/28/02 interview)**

- 4.154 Once WESCOT Company committed to contributing to the campaign, Mr. Hujar met with the candidates to determine the allocation of funds.

"The third person is Maggie Steenrod and I met with Maggie once. Maggie's position on this was that she hated politicians. She didn't want to be a politician. She didn't want to run a campaign like a politician and that she rejected all of the advice that I gave to her. Except for, well I take that back, at the first meeting, it was a very contentious discussion that I had with her." **(Exhibit # 4, page 4/ Hujar 6/26/02 interview)**

- 4.155 After meeting with the candidates, Mr. Hujar stated:

"...One of the, one of the things that had to be done, it was very clear was to do a telephone, persuasion phone call on behalf of the candidates. Don had told me that in the last election for city council that the people who were against the third runway project had used phone banks, paid phone banks in order to win the election. And he specifically said that that was one of the things that he wanted to do and I concurred with him. I thought that that was something that they should do. And the WESCOT Company gave a check for, I

believe \$5,000...That's what went to McGuire Research." **(Exhibit # 4, page 7, 8/ Hujar 6/26/02 interview)**

"The game plan was to spend money for Richard Benjamin and then for Gary Petersen. Then Don called me up and said, 'we need to help Maggie out, she's in trouble.' So we put some money in there...we had this very serious problem with Maggie Steenrod and as I said in my earlier testimony, Maggie Steenrod did not want our assistance. She had told me that she was close to the \$3,500 mark and that she didn't even want to sit and talk with me because she was afraid that she would have to report it and she really did not want to have anything to do with it. And I had told her at the time I said, 'Maggie there will be a point in time when the other side will send a negative mailing or a negative attack and you're going to want to talk to me. And if you want to talk to me, call me.' And in essence that did happen. There was a negative attack." **(Exhibit # 5, pages 8, 24/ Hujar 8/28/02 interview)**

"Because the ACC had sent out a citywide mailing attacking her...About something or other and they all panicked. So I then put money into a phone bank for Maggie. **(Exhibit # 5, page 24/ Hujar 8/28/02 interview)**

4.156 Maggie Steenrod filed a complaint with the PDC on August 10, 2002 **(Exhibit # 26)** alleging that the Regional Commission on Airport Affairs (RCAA) and the Airport Communities Coalition (ACC) may have violated RCW 42.17 by expending public funds to assist Des Moines City Council candidates in the 2001 election by making statements about candidates in the newsletter of the RCAA, Truth in Aviation. Ms. Steenrod stated in her complaint that on October 24, 2001, she received a copy of the Newsletter of the Regional Commission on Airport Affairs, which supported her opponent in the election and described her as "pro-runway." She stated in her complaint that she received calls from voters who had changed their minds about voting for her because they believed she was in favor of a third runway in Des Moines.

4.157 Tom Hujar stated that following the description of Maggie Steenrod as pro-runway:

"Don Wasson called me up and he said we've got to do persuasion calls for Maggie Steenrod. I said, 'Have you talked to Maggie about this because she told me specifically she can't do that?' And he said, 'I talked with her and you need to do it otherwise she is going

to lose the race.’ And I then gave him, I told him that, I don’t know, it was like, I can’t even remember how much it was it was, maybe \$1,200 worth of phone calls that was done... I can only tell you that Don, in nearly everything that was done in terms of the work that was done for these candidates was coordinated completely through him...She called me up and she said, ‘Tom somebody is making calls on my behalf, do you know who it is?’ And I said, ‘You need to talk to Don about that. You don’t need to talk to me.’ I said, I told her, ‘I can’t answer that. You need to talk to Don about that...’ Those were the calls through McGuire Research. And Maggie in fact, my understanding was that she was making a lot of those personal phone calls herself. That when I did talk with her and I, I told her that, she told me that she wasn’t going to be making any phone calls or that she couldn’t accept any phone calls because she’d go over the \$3,500 limit. I suggested to her that she and her two sons and her husband make phone calls. And when she had called me up about these additional phone calls being made she had told me, she says, ‘I’m making a lot of, my husband and I are making a lot of these phone calls but we ran into a group of people who said that they had already been called on my behalf. And I want to know who it was.’ ” **(Exhibit # 5, pages 8, 9, 10/Hujar 8/28/02 interview)**

- 4.158 McGuire Research Services provided copies of invoices and payments by F.D.R. Services for the survey and advocacy calls. **(Exhibit # 24)**. The October 26, 2001 invoice for advocacy calls related to calls placed for Gary Petersen, Richard Benjamin and Maggie Steenrod. The November 4, 2001 invoice related to advocacy calls for Richard Benjamin only.

<u>Invoice Date</u>	<u>Description</u>	<u>Amount</u>	<u>Date Paid</u>	<u>Check #</u>
10/8/01	Des Moines-Surveys	\$4,000	10/10/01	5212
10/26/01	Washington-GOTV Calls	\$5,000	10/23/01	5223
11/4/01	Benjamin Advocacy calls	\$1,000	10/31/01	5228

- 4.159 Mr. Hujar stated that he arranged for Mike Snyder to meet with the candidates to write brochures. He stated, “...So I called up Mike Snyder and I said are you available to help these candidates out...I don’t believe that Mike ever met with Gary Petersen because he was gone. And I don’t think that he ever met with Maggie Steenrod.” **(Exhibit # 5, pages 28, 29/ Hujar 8/28/02 interview)**

- 4.160 Mr. Hujar was asked about Don Wasson's role in the campaigns of Gary Petersen, Richard Benjamin and Maggie Steenrod. Mr. Hujar stated:

"There was no question in either my mind or I think Hank's mind that it was Don's show. That Don was, Don told us that you know I think I told you he said that he had always been on the losing end of 6 to 1 votes and that he wanted to leave the City of Des Moines in good hands and he wanted to be Mayor. And that he had recruited these four candidates, at least three of the, he had recruited three of the candidates and that if they won the campaign he was going to become Mayor of Des Moines and that was his lifelong dream. There was just, you know, I think you have to look at how often I was in contact with these individuals. I mean I hardly talked to any of them and I think I spoke with Don maybe every other...he recruited Richard Benjamin. No I take that back. He recruited Gary Petersen. He has a very funny story about how he recruited both Gary Petersen and Maggie Steenrod. They were very reluctant candidates and did not file until the very last day."
(Exhibit # 5, page 19, 20/ Hujar 8/28/02 interview)

- 4.161 Tom Hujar provided the PDC with an expense summary **(Exhibit # 28)** providing a breakdown of the funds received from Hank Hopkins. Of the \$19,800 spent on campaign activities, he allocated it as follows:

Mike Foote	\$ 500
Gary Petersen	\$ 3,500
Maggie Steenrod	\$ 1,000
Richard Benjamin	\$14,800

- 4.162 Mr. Hujar added the comment, "Please note that Maggie Steenrod specifically asked me not to make any expenditure on her behalf due to the \$3,500 limitation. The telephone calls were made at the direction of Don Wasson."
- 4.163 Mr. Kaplan stated in his complaint to the PDC, "Des Moines Marina Tenant Association President Thomas Sitterley publicly bragged repeatedly about making \$1,000 contributions to all four challenger candidates. If contributions were made to the two candidates who chose mini-reporting, the in-kind contributions would violate the \$300 contribution limit for those candidates." Mr. Sitterley was interviewed by PDC staff on July 30, 2002. Mr. Sitterley stated that the Marina Tenants Association made two contributions of \$1,000 each to Richard Benjamin and Mike Foote. Mr. Sitterley sent copies of those checks as well as copies of his

bank statements verifying the contributions. **(Exhibit # 32)** He further stated that the Marina newsletter made recommendations for the support of four candidates. The total cost of the newsletter was \$151.49. The candidates were not consulted prior to the newsletter's creation or distribution.

- 4.164 Maggie Steenrod denied receiving contributions in excess of the limits of mini-reporting. She stated:

“With a couple of minor exceptions, the cost of my campaign was borne by myself and my company, which I own. I declined several offers of financial assistance to avoid any inclination toward bias or the appearance of any impropriety which might arise during or after the election. There was no improper reporting or contribution in excess of \$50.”

Joe Coomer

- 4.165 On March 19, 1998 and April 17, 1998, Concerned Citizens for Better Government filed a Committee Registration Statement (PDC Form C1pc) listing the purpose of the committee as a Continuing Political Action Committee. Mr. Joseph Coomer was named as campaign manager, treasurer and principal officer.
- 4.166 David Kaplan alleged that prior to the General Election, Joe Coomer produced a number of flyers in support of Richard Benjamin, Gary Petersen, Mike Foote and Maggie Steenrod and did not file an Independent Expenditure Form C-6.
- 4.167 Joe Coomer was interviewed under oath by PDC staff on August 20, 2002. He stated that Concerned Citizens for Better Government sponsored a flyer that supported candidates Richard Benjamin, Gary Petersen, Maggie Steenrod and Mike Foote. Mr. Coomer stated that he could not remember the cost of the flyer, but that he reported the cost of the flyer on his PDC reports. Concerned Citizens for Better Government reported to the PDC on October 3, 2001 an expense “9/16 flyer, printing, Staples, 4000 copies \$199.23.” **(Exhibit #42)**
- 4.168 Mr. Coomer stated that he did not confer with any of the candidates prior to composing and distributing the flyer. He also stated he, “...made no direct monetary contribution to any of the candidates.”

Jerry Guite

- 4.169 On April 15, 2001, David Kaplan filed a complaint with the PDC alleging that prior to the General Election, Jerry Guite produced a number of flyers in support of Richard Benjamin, Gary Petersen, Mike Foote and Maggie Steenrod and did not file an Independent Expenditure Form C-6.
- 4.170 Ronald F. Clark filed a complaint, PDC Case No. 02-261, on October 18, 2001 alleging that Patty and Jerry Guite made a \$338 expenditure in support of Des Moines City Council candidates but did not report the expenditure in violation of RCW 42.17.100 and that the political advertisement lacked proper sponsor identification in violation of RCW 42.17.510. Jerry Guite was interviewed under oath by PDC staff on August 15, 2002. Mr. Guite stated the total expenditure was allocated among the four candidates resulting in less than \$100 cost per candidate, therefore not requiring a C-6 report. The complaint was dismissed by the PDC May 15, 2002.

Respectfully submitted this _____ day of January 2003.

Sally Parker
Political Finance Specialist

List of Exhibits

- Exhibit # 1: Don Wasson November 12, 2002 interview transcript pages.
- Exhibit # 2: Don Wasson July 25, 2002 interview transcript pages.
- Exhibit # 3: Hank Hopkins July 31, 2002 interview transcript pages.
- Exhibit # 4: Tom Hujar June 26, 2002 interview transcript pages.

Exhibit # 5: Tom Hujar August 28, 2002 interview transcript pages.

Exhibit # 6: Don Wasson's check #300 to Tom Hujar.

Exhibit # 7: Tom Hujar's September 26, 2002 email to PDC staff.

Exhibit # 8: Tom Hujar's November 27, 2002 letter to PDC staff.

Exhibit # 9: F.D.R. Services November 2001, Bank of America statement and deposit of Don Wasson's check to the account.

Exhibit # 10: Don Wasson October 10-November 9, 2001 Pacific Northwest Bank statement and Tech Marine Enterprises Inc check dated October 26, 2001 to Don Wasson.

Exhibit # 11: Richard Benjamin Schedule B showing in kind contribution from Don Wasson.

Exhibit # 12: Gary Petersen Schedule B showing in kind contribution from Don Wasson.

Exhibit # 13: Don Wasson's check number 301 to Costco for printing.

Exhibit # 14: Tech Marine check number 4895 to Don Wasson.

Exhibit # 15: Environmental Materials Transport, LLC, check number 5196 to Don Wasson.

Exhibit # 16: Don Wasson's September 27-October 24, 2001, Washington Mutual bank statement.

Exhibit # 17: Don Wasson January 2, 2003 interview transcript pages.

Exhibit # 18: PDC staff chronology and payment records.

Exhibit # 19: Letter dated November 25, 2002, from Gregory Hollon to PDC staff.

Exhibit # 20: McGuire Research Services, LLC, Des Moines Survey draft.

Exhibit # 21: F.D.R. Services check numbers 5229 and 5241 to Mike Snyder.

Exhibit # 22: F.D.R. Services Bank of America November 2001 bank statement.

Exhibit # 23: September 16 and 17, 2002 emails from Mike Snyder to PDC staff.

Exhibit # 24: McGuire Research Services, LLC, invoices, job summary forms and payments from F.D.R. Services.

Exhibit # 25: Truth in Aviation, Vol 7, No 2 newsletter.

Exhibit # 26: Complaint to PDC dated November 5, 2001 from Maggie Steenrod.

Exhibit # 27: Cashier's checks and business check from Environmental Materials Transport, LLC, to F.D.R. Services.

Exhibit # 28: Expense summary dated September 27, 2002 from Tom Hujar to PDC staff.

Exhibit # 29: Expense summary dated December 10, 2001 from Tom Hujar to Hank Hopkins.

Exhibit # 30: Henry "Mike" Foote, Jr., July 9, 2002, interview transcript page.

Exhibit # 31: Check dated October 22, 2001 from Tom Hujar to Mike Foote Campaign.

Exhibit # 32: Des Moines Marina Association October and November 2001 bank statements and checks to Richard Benjamin and Mike Foote.

Exhibit # 33: Gary Petersen July 3, 2002 interview transcript page.

Exhibit # 34: Gary Petersen's August 27, 2001, F-1 Report.

Exhibit # 35: Gary Petersen's April 23, 2002, F-1 Report.

Exhibit # 36: City of Des Moines vendor Detail of Pete's Towing dated March 5, 2002.

Exhibit # 37: Gary Petersen's towing invoices submitted to PDC staff for Pete's Towing dated June 26, 2002.

Exhibit # 38: Gary Petersen's C-4 dated December 10, 2001.

Exhibit # 39: Gary Petersen's C-3 dated July 2002.

Exhibit # 40: Richard Benjamin July 10, 2002 interview transcript page.

Petersen, Benjamin, Foote, Steenrod, Guite, Coomer, Wasson, Hopkins,
WESCOT Company, Environmental Materials Transport, LLC
PDC Case Number 02-296
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Exhibit # 41: Maggie Steenrod written response to PDC Case No. 02-296 dated
May 2, 2002.

Exhibit # 42: Joseph Coomer, Concerned Citizens for Better Government
expense attachment dated October 3, 2001.

Exhibit # 43: F.D.R. Services check number 5220 to U.S. Post Office.